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TRANSCRIPT OF RECORD

[redacted]

OCTOBER TERM, 1940.

No. 641

[redacted]

vs.

PRESS PUBLISHING COMPANY.

[redacted]

FILED MAY 9, 1941.

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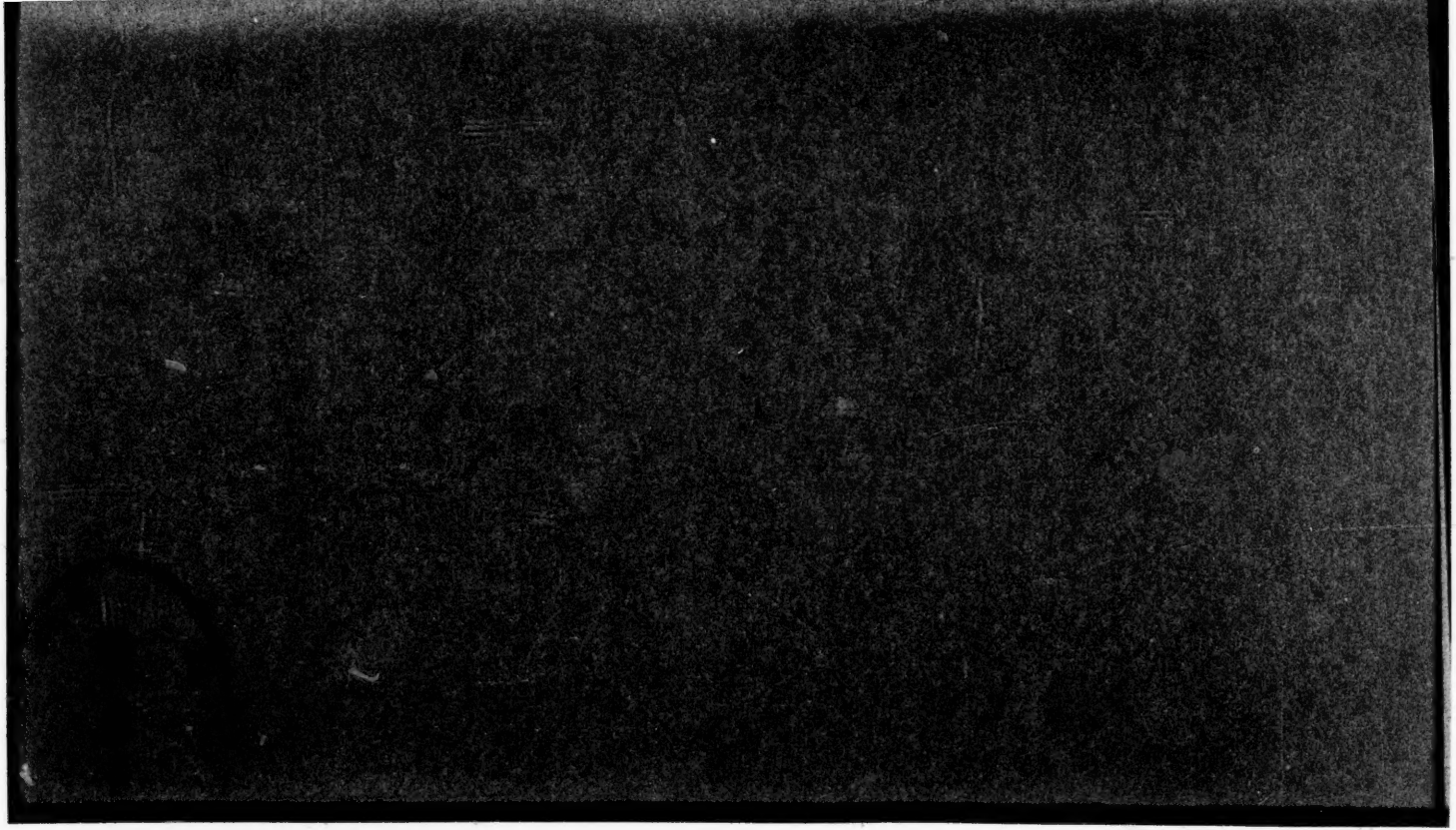

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 541.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

PRESS PUBLISHING COMPANY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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52706—10——1

1 The President of the United States of America to the honorable judges of the Circuit Court of the United States for the Southern District of New York in the Second Circuit, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court of the United States for the Second Circuit in the Southern District of New York before you or some of you between the United States of America and the Press Publishing Company, a manifest error hath happened to the great damage of the said the United States of America as by its complaint appears.

We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington within thirty days from the date hereof. That the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

2 Witness the Hon. Melville W. Fuller, Chief Justice of the United States, the twenty-fifth day of February, in the year of our Lord one thousand nine hundred and ten.

[SEAL.] JOHN A. SHIELDS,
Clerk of the Circuit Court of the United States for the Southern District of New York in the Second Circuit.

Allowed:

C. M. HOUGH,
U. S. Dist. Judge for the Second Circuit.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, John A. Shields, clerk of the Circuit Court of the United States of America for the Southern District of New York in the Second Circuit, by virtue of the foregoing writ of error, and in obedience thereto, do hereby certify that the following pages, numbered from 4 to 74, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the cause of the United States of America, plaintiff in error, against the Press Publishing Company, defendant in error, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the Southern District of New York, in the Second Circuit, this sixth day of May, in the year of our Lord one thousand nine hundred and ten, and of the independence of the United States the one hundred and thirty-fourth.

[SEAL.] JOHN A. SHIELDS, *Clerk.*

3 (Indorsed:) (Original.) Form No. 336. U. S. Circuit Court, Southern District of New York. United States versus Press Publishing Company. Writ of error. Henry A. Wise, United States attorney, attorney for U. S. Due service of a copy of the within is hereby admitted. New York, Feby. 25th, 1910. U. S. Circuit Court, Southern District, N. Y. Filed Feb. 25, 1910. John A. Shields, clerk.

A copy of the within has this day been received, Feb. 25, 1910.

NICOLL, ANABLE, LINDSAY & FULLER,
Attorneys for Def.

4 *Indictment.*

In the Circuit Court of the United States of America for the Southern District of New York, of the January term, in the year nineteen hundred and nine.

Southern District of New York, ss:

The grand jurors for the United States of America, impaneled and sworn in the Circuit Court of the United States for the Southern District of New York, and inquiring for that district, upon their oath present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the several times of the committing, by the defendant hereinafter named, of the several offenses in this indictment hereafter mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law, residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama, hereinafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Columbia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had

failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint stock company, organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and generally to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigation to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such

cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the third day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and Southern District of New York, the Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, contriving and unlawfully, wickedly and maliciously intending to injure, vilify and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in a certain newspaper, to wit, a newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the said fort and military post and reservation of West Point, that is to say, in the issue of that newspaper for the day in this count of this indictment last above mentioned, a certain false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00 from the said Compagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus; which said newspaper article (excepting three portraits, which can not be here reproduced) and libel, and false, scandalous, malicious, and defamatory matters in print, then and there were, and are, of the tenor which here follows, that is to say:

Men who figure in rumors about great Panama Canal deal.

[Portrait: Charles P. Taft. Portrait: Douglas Robinson. Portrait: William Nelson Cromwell.]

William N. Cromwell says man seeks to blackmail him—Through law partner he complains to district attorney of attempted hold up in connection with alleged deal by which syndicate he headed reaped

$36,500,000 profit in sale of Panama Canal to the United States—Cromwell brands story of deal as a "fake"—Candidate Taft's brother and Douglas Robinson, President Roosevelt's brother-in-law, alleged to have been in syndicate—Col. Alexander S. Bacon says he investigated the deal, but never took a dishonest dollar.

District Attorney Jerome is investigating a matter placed before him by W. J. Curtis, of the firm of Sullivan & Cromwell, of which William Nelson Cromwell is one of the partners. Mr. Curtis visited the office of the district attorney on Thursday and represented that there were men whom he named that were endeavoring to obtain money from Mr. Cromwell because of his interest in the transactions leading up to the purchase by this country of the Panama Canal.

In brief, Mr. Curtis told Mr. Jerome it had been represented to Mr. Cromwell that the Democratic national committee was considering the advisability of making public a statement that William Nelson Cromwell, in connection with Mr. Bunau-Varilla, a French speculator, had formed a syndicate at the time when it was quite evident that the United States would take over the rights of the French bondholders in the De Lesseps Canal, and that this syndicate included among others Charles P. Taft, brother of William H. Taft, and Douglas Robinson, brother-in-law of President Roosevelt. Other men more prominent in the New York world of finance were also mentioned.

Story Curtis told Jerome.

According to the story unfolded by Mr. Curtis, it was said that the men making this charge against Mr. Cromwell had averred that the syndicate thus organized in connection with Bunau-Varilla had gone into the French market and purchased for about $3,500,000 the stock and bonds of the defunct De Lesseps Company and of the newer concern which had taken over the old company and had for a time prosecuted work on the canal.

These financiers invested their money because of a full knowledge of the intention of the Government to acquire the French property at a price of about $40,000,000 and thus, because of their alleged information from high government sources, were enabled to reap a rich profit.

It was further stated that the story as told against Mr. Cromwell fixed the profit of the syndicate at $36,000,000, this amount being divided among government favorites in the world of politics and finance.

Truth of rumors not established.

It is only fair to Mr. Cromwell to say that the report of the Panama operations implicating him in this gigantic transaction has been public property in the newspaper offices of New York almost since the date of the transaction, four years ago, and it is also fair to say that the investigations have not established the truth of the far-reach-

ing rumors. A represenative of Mr. Cromwell's office last night stated that it was true a complaint had been made to District Attorney Jerome for the reason that Mr. Cromwell feared an attempt was being made to blackmail him, as a certain man had come to him and represented that the Democratic national committee would make public this scandalous statement, and that he told Mr. Cromwell his personal influence would stop any publication from any source, whereupon the lawyer, who is the close friend and adviser of Mr. Taft, concluded that it was an attempt to hold him up.

Mr. Cromwell's agent last night said that the Panama story was an open book, that it was true that $40,000,000 was appropriated by the United States Government to take over the holdings of the old French companies, that this amount was sent to France through the firm of J. P. Morgan & Co., who were paid $36,000 for transfer fees, that the entire amount was paid into the French courts, and the individual holders of bonds were from time to time paid off as their claims were proved.

Denies there was a syndicate.

Mr. Cromwell's agent said most emphatically there had been no syndicate of any kind at any time formed for the purpose of handling the Panama bonds, and that the acquisition of the bonds
6 through this Government was through regular channels and through no intermediate holding company. At the Democratic national headquarters it was stated that an effort had been made to interest them in this Panama story, and that for several days some ends of it had been under investigation.

It was denied emphatically that any publication had ever been thought of in connection with the matter, as the investigation had been only casual, just as scores of other similar charges were examined when presented by seemingly responsible people.

Col. Bacon treats it as joke.

Col. Alexander S. Bacon, who is said to have studied the Panama situation, treated the complaint to Mr. Jerome as something of a joke. "I have not seen William Nelson Cromwell for two years," he declared. "I have had no communication with him. I have never taken a dishonest dollar in my life. I know of no complaint against me at the district attorney's office, and I'll be there to answer it when I am notified.

"The fact of the matter, so far as I may disclose at present, is as follows: I tried to expose this syndicate as far back as 1904, when the United States bought the canal. I knew then that there was a syndicate of American capitalists which had bought this property from the French company, but I did not know the names of the men in this syndicate. I made a trip to France to find out, but did not get the information.

Knows men in syndicate.

"Eight days ago I returned from a second trip to France on the same errand, and now I know the names in this syndicate. When you ask me whether Charles P. Taft and Douglas Robinson are among those names I must beg to be excused. The whole thing will come out shortly.

"Mr. Cromwell knows what the Republican national committee knows. If there is any complaint before the district attorney of New York, it looks to me like an attempt to balk me.

"I have heard of no 'complaint,' and I have never heard of any person named Illington, who is supposed to be associated with me in the present alleged complaint.

"I was sent over to France this last time to investigate the canal purchase by certain prominent persons, whom I cannot indicate at this moment. The Democratic national committee knows all about it; so does the Republican national committee.

"If any one charges that I have tried to blackmail him, he lies. Once before a man was sent to France to find the truth of this Panama syndicate, and he was bought off. I can not be bought off."

Cromwell denounces story.

Late last night Mr. Cromwell made the following statement to the World:

"We may expect during a heated political contest all kinds of stories, which are not worthy of notice, but this one I wish to denounce in the strongest terms as a lying fabrication, without a shadow of truth in it. Neither I nor anyone allied with me, either directly or indirectly, at any time or in any place in America or abroad, ever bought, sold, dealt in, or ever made a penny of profit out of any stocks, bonds, or other securities of either the Old Panama Canal Company or the New Panama Canal Company, or ever received for the same a single dollar of the forty millions paid by the United States. I make this the most sweeping statement that language can convey.

"As everybody connected with the affair knows, I abstained from receiving the forty millions in my own hands at Washington or New York as the general counsel for the company, and myself arranged for the payment of the entire forty millions direct from the Treasury of the United States through the bankers of the Government into the Bank of France at Paris to the credit of the liquidators of the two companies. There it remained subject to the order of the liquidators until distributed by them to the hundreds of thousands of beneficiaries, and not one dollar of it ever came to me or any one in any wise connected with me. Of course I do not refer to our regular compensation as counsel. I suppose it will be years before the beneficiaries will all be identified and the distribution completely made.

"Another evidence of fake."

"The mention of the names of Mr. Taft and Mr. Douglas Robinson is another evidence that this is a fake story. No member of the Taft family or Mr. Douglas Robinson ever had the remotest connection with Panama Canal matters, directly or indirectly, and I never saw one of them on this subject before the United States acquired the canal. I never saw Mr. Douglas Robinson in my life. The names of Caesar and Napoleon might as well have been used, for it could not be more impossible. All this, except the dragging in of new names, was threshed out before the United States Senate committee by the late Senator Morgan. Out of respect for the dead, I refrain from comment upon that proceeding, but I feel warranted in saying that it was pursued with unparalleled energy and skill. It was, however, completely exploded and refuted by the facts in the case, and ended in complete discomfiture. There is not a word of truth in it, and I would not notice it at this time if it did not concern others."

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the said false, scandalous, malicious, and defamatory libel then and there, to wit, on the said third day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company knowingly delivering and causing to be delivered, for perusal by persons residing at the said military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspapers, so then and there containing the said false, scandalous, malicious, and defamatory newspaper article and libel, at a certain store there situate, to wit, the post exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers, it, the said Press Publishing Company, then and there, well knowing all the premises aforesaid, and well knowing the said false, scandalous, malicious, and defamatory newspaper article and libel to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company
7 then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to the reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet adviser of the President, had,

before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, to wit, a profit amounting to the sum of $36,500,000.00, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company—and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant in this count of this indictment hereafter named, of the offense in this count

mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of
8 land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus

of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and southern district of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the fourth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and southern district of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, as aforesaid, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libel in the first count of this indictment set forth, and so having published the same as in the said first count charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them respectively to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in the said newspaper, to wit, the newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said southern district of New York, and particularly in the said fort and military post and reservation of West Point, as aforesaid, that is to say, in the issue of that newspaper for

the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count mentioned, then and there were, and are, of the tenor which here follows, that is to say:

Mack admits he's sifting charges made by Bacon—Says evidence that an American syndicate was concerned in sale of Panama Canal is conclusive—No Tafts were in it, Brother Henry protests—Cromwell stands pat on his denial—Story of his spectacular career.

William Nelson Cromwell added nothing yesterday to his denial of Friday that he or any one allied with him had profited from the sale of the Panama Canal to the United States Government. W. J. Curtis, the partner of Mr. Cromwell, who placed "certain matters" before District Attorney Jerome, refused to talk to reporters.

Norman E. Mack, chairman of the Democratic national committee, issued a statement, in which he admitted that the committee had been in communication, but "not directly," with Col. Alexander S. Bacon, a lawyer, at No. 37 Liberty street.

Col. Bacon was intensely aroused over the article published in Saturday's World to the effect that he had recently returned from Paris, where he investigated the details of the American syndicate which is said to have bought the Panama Canal from the French company and had sold it at a large profit to the United States Government.

Denial from the Tafts.

Henry W. Taft, brother of William H. Taft, Republican nominee for President, and of Charles P. Taft, who has been mentioned as one of the American syndicate, pronounced the story a "fake" through and through.

"Neither I, my brother, the Judge, or Charles P. Taft had anything to do with the Panama Canal sale," he told a World reporter last night. "The whole thing is a dream."

"It may be that Charley had dinner with M. Bunau-Varilla. I do not deny that. But, speaking for all of the Taft brothers, you must quote me as saying that none of us had any part in the Panama Canal sale."

At Democratic and Republican national headquarters the disclosure aroused great interest. Chairman Norman E. Mack, of the
9 Democratic national committee, gave out an interview in which he admitted that the matter had been considered. The Republicans sat tight.

"Matter now being considered."

"Has the Democratic national committee taken cognizance of the report that William Nelson Cromwell, Henry W. Taft, and Douglas Robinson, brother-in-law of President Roosevelt, were engaged in a Panama stock speculation and induced the United States Government to make the Panama Canal purchase?" was asked Chairman Mack.

"Yes," he replied, "the matter is now under consideration, and the committee has agreed with me that it is a matter that belongs to the newspapers."

"Has the committee had any relations with Col. Alexander F. Bacon?"

"Not directly."

"Did Col. Bacon submit any information to this committee?"

"Not directly, to my knowledge, although he has talked to some members of the committee."

"What is the status of the committee's information at present?"

"The evidence, so far, as given to the committee, in many instances is conclusive. But the liability of those presenting it is one of the things which the committee has had under advisement."

"Is the evidence presented to you conclusive that there was an American institute?"

No doubt about syndicate.

"I do not think there is any doubt about that. It is conclusive in that *that* respect as far as I can learn—at least that is my general understanding of it."

"Were the names of that American syndicate brought out in the Senate investigation?"

"These three names mentioned were given to the committee."

Concluding his interview, Mr. Mack gave out a list of twelve corporations with which he said William Nelson Cromwell is connected. They are the American Cotton Oil Company, American Surety Company, Bowling Green Trust Company, Dame & Townsend Company, International Nickel Company, Milwaukee Heat, Light and Traction Company, North American Company, Shelby Iron Company, Sterling Iron and Railway Company, United Bank Note Corporation, and Panama American Corporation.

Wonder what the profit was.

The sensation of the day at Democratic and Republican headquarters was not so much a disputing of whether or not an American

syndicate had bought the Panama Canal, but who composed the syndicate and what profit they reaped.

William Nelson Cromwell, who was counsel for Panama, as well as for the French company, and who, it was reported at the time, cleared a matter of $1,000,000 or $2,000,000 for his expert work in making the sale, has declared that he never even saw Douglas Robinson, brother-in-law of the President. No member of the Taft family, he asserts, had the remotest connection with Panama Canal matters.

Following the statement of Norman E. Mack, it was common talk yesterday at Democratic headquarters that the World had developed the most pertinent feature of the present campaign. It was said there that the Panama Canal exposure was being saved for a cataclysmic broadside to be delivered at the shank of the campaign.

It was deplored that the matter should have been given publicity through the complaint of W. J. Curtis to District Attorney Jerome. Cromwell, Jerome, Curtis, and Col. Bacon were all reticent in discussing any details of the proposition laid before the district attorney's office.

Col. Bacon sent a letter to the press branding parts of his interview with the World reporter as a fabrication, although the statement of Chairman Mack indicates that the Colonel was in indirect communication with the Democratic national committee.

The committee has been dickering for some time to secure evidence on the queer doing behind Panama Canal purchase. It was on the point of finding out the identity of the members when the World article scared everybody off. The committee does not believe that this syndicate made anything like $36,500,000, but it is convinced that perhaps $6,000,000 was cleared.

Cromwell is a marvel at putting through big deals—Had run of White House and War Department after sale of Panama Canal to United States—Match in intellect for biggest men in the country.

No stranger or more complex personage exists in the financial district than William Nelson Cromwell, whose law partner, W. J. Curtis, went to District Attorney Jerome with a complaint that some one was endeavoring to obtain money from Mr. Cromwell for the suppression of alleged facts concerning enormous profits made out of the sale of the Panama Canal to the United States Government in 1904.

Mr. Cromwell issued a statement flatly denying that either he, Douglas Robinson, brother-in-law of President Roosevelt, or Charles P. Taft, brother of William H. Taft, the Republican candidate for President, had bought up the stock of the Panama Canal Company from the French shareholders and had divided the major part of the $40,000,000 received from the United States Government among themselves and their associates.

That Mr. Cromwell took an active part in promoting the revolution on the Isthmus which took the canal territory from Colombia and created the Republic of Panama, and that the Roosevelt administra-

tion had advance knowledge of the manufactured revolution and took steps to make it a success by having warships near at hand, has been repeatedly charged. Before the Panama Canal could be sold to the United States Government a clear title had to be guaranteed, and that was impossible as long as Colombia owned the Isthmus.

Revolution came at time set.

Other men would have been daunted and given up hope of making the $40,000,000 sale. But Mr. Cromwell got busier than ever through agents in Washington, the Isthmus, and elsewhere, and in some manner that has not yet been satisfactorily explained the revolution occurred at the time set. American warships which ordinarily would have been far from the scene arrived off Panama at the psychological moment, the "revolutionists" got control of the Isthmus, and the new Government, formed promptly, granted all of the concessions and conditions which the United States Government insisted upon before it would buy what Mr. Cromwell had to sell. The deal was put through, and on May 9, 1904, Secretary of the Treasury Shaw signed the $40,000,000 warrant, the largest ever drawn by the Government, in payment for the canal property.

What Mr. Cromwell got out of this has always been conjectural. It has been said that he was to get a five per cent commission and to pay all the expenses himself. Five per cent of $40,000,000 is $2,000,000, but it costs something to manufacture a revolution. Mr. Cromwell has been credited with making $1,000,000 out of the sale, but this may be erroneous, too.

Cut his bill $600,000.

On Jan. 2 last a cablegram from Paris to the New York newspapers stated that the exact amount of Mr. Cromwell's bill to the French Panama Canal Company was $724,167.77, and furthermore that the Frenchmen regarded this as so highly excessive that they refused to pay it. The bill was finally arbitrated and the arbitrators fixed Mr. Cromwell's compensation at $125,000. The arbitrators in lopping $600,000 from Mr. Cromwell's bill took into consideration the fact that for nine years and a half the French canal company had paid him an annual retainer of $10,000.

Mr. Cromwell is about 5 feet 8 inches high and medium in build. He is fifty-four years old, but his hair and mustache have been snow white for years. He wears his hair, which is curly, longer than most men, and crowns it almost invariably with a glistening silk hat. His wealth of snowy hair topped with the high hat gives him rather a theatrical look, but there is nothing theatrical about his methods. He can dig deeper and do big things more quietly than almost any one downtown, and that means something.

His eyes are a brilliant light blue, as clear as a baby's and as innocent looking as a girl's. His complexion also would not shame a

maiden. He can smile as sweetly as a society belle and at the same time deal a blow at a business foe that ties him into a hopeless tangle of financial knots.

A wonder at figures.

Mr. Cromwell is professionally a corporation lawyer, but he is many other things, too. He is a wizard with figures and a shorthand writer of wonderful skill. He was born in Brooklyn in 1854, and no great amount of money was spent on his education. He had to get out early and dig for himself. He got a job as office boy or junior clerk in a railroad company's office, and there his intuitive skill with figures pushed him rapidly ahead. He displayed other qualities of intellect that marked him from the ordinary.

John E. Searles, the old-time "Sugar King," stumbled across young Cromwell and advised him to study law. It wasn't hard for Cromwell to prepare himself for admission to the Columbia Law School, and he was graduated in the same class with William B. Hornblower. He entered the law office of Sullivan, Kobbe & Fowler, the head of which firm was Algernon S. Sullivan, the Chesterfield of the United States bar. In time other partners dropped out and Mr. Cromwell was taken into the firm, which became Sullivan & Cromwell. In 1888 Mr. Sullivan died, and his place was taken by his son George H. Sullivan. Since then Mr. Cromwell has been "the whole works" in the firm, Mr. Sullivan being seldom heard of.

His first big exploit.

Not until 1891 did Mr. Cromwell do anything that made him stand out as a lawyer of exceptional gifts. In that year the great firm of Decker, Howell & Co. went under owing $10,000,000. It was a bad failure, and it looked as if little could be saved for the creditors. Mr. Cromwell was made assignee, and within six weeks the involved affairs of the firm had been straightened out, the creditors had been paid dollar for dollar, and the firm was doing business again. For that work the court awarded him a fee of $260,000, the largest of its kind up to that time, and instead of regarding it as excessive the firm supplemented it with a gift of a massive silver service.

Since then Mr. Cromwell has had a hand in nearly every big piece of litigation that has come along in the Wall street district. He is an artist at pulling a badly involved company out of a hole, and has more ways of getting around a seemingly hopeless proposition than seem possible to his adversaries.

He is one of the readiest talkers in town. No life insurance agent could beat him. He talks fast, and when he wishes to, never to the point. At the height of the life insurance scandal Mr. Cromwell spent two hours and a half in District-Attorney Jerome's office. Mr. Cromwell went there with the avowed purpose of telling Mr. Jerome all the inside secrets of the "yellow dog" fund in the Equitable Life.

After Mr. Cromwell, smiling and affable, had left, Mr. Jerome admitted he had not been able to get a solitary fact out of him.

Mr. Cromwell has an intellect that works like a flash of lightning, and it swings about with the agility of an acrobat. Lawyers say the only man who can combat him in a conflict in court is Samuel Untermyer. Whenever the two meet they always have a big audience of their own profession.

More than a match for Morgan.

In the winter, spring, and early summer of 1906 Mr. Cromwell was repeatedly a witness before the Senate Committee on Interoceanic Canals, and day after day was put on the grill by the late Senator Morgan, of Alabama, regarded by many as the ablest figure in the upper House of Congress. Senator Morgan went at Mr. Cromwell mercilessly to find out the true inwardness of the sale of the Panama Canal to the United States, and of many queer things that had happened on the Isthmus, but he never found out. With all the power of the United States Senate supposedly behind him to punish a contumacious witness, and with his own great inquisitorial skill, Senator Morgan never made any substantial headway against Cromwell.

11 Many times during that inquiry it seemed as if Senator Morgan was on the verge of making a monumental disclosure, which would have been equally disastrous to President Roosevelt and his adminstration, but the nimble witted Cromwell always stood in the way.

The friendship which began between the President, soon after he succeeded Mr. McKinley, and the New York lawyer was always a deep mystery. For several years Mr. Cromwell had the freedom of the White House. Then after the Government paid the $40,000,000 for the Panama Canal and Mr. Cromwell became counsel for the Panama Republic and also its fiscal agent he had the run of the War Department in the same free-handed way. Secretary of War Taft, who was in supreme charge of the Canal Zone and building the canal, seemed to rely wholly upon the New York lawyer.

Cromwell was close to Taft.

In November of 1904, when Secretary Taft went to Panama on the United States cruiser "Columbia," he took along with him Mr. Cromwell. Later during absences of Secretary Taft from Washington Mr. Cromwell, a private citizen, practically ran the War Department as far as the canal was concerned.

On July 25, 1905, the World printed a telegraphic despatch from Washington, which said:

"During the absence of Secretary Taft William Nelson Cromwell is discharging as many of the functions of the head of the War Department, pertaining to the canal, as possible. * * * The Presi-

dent's powers under the Spooner law authorizing him to build the canal are practically without limitation and he has seen fit to make use of Mr. Cromwell in many capacities."

John F. Wallace, chief engineer of the Panama Canal, who suddenly resigned his position and brought down upon his head the wrath of President Roosevelt and Secretary Taft, was called shortly afterward as a witness before the Senate Interoceanic Canals Committee. Questioned about Mr. Cromwell's activities in the affairs of the Panama Canal, Mr. Wallace testified on Feb. 5, 1906:

Thought Cromwell dangerous.

"Part of my errand in coming home was to shake Cromwell off my shoulders. I did not think his conection with the work was desirable. Cromwell may be perfectly harmless, but he appears to me to be a dangerous man.

"I thought about him as being the man who brought about the sale of the canal to the Government, who brought about the revolution in Panama, who assisted the Government of Panama in making its investments, who is carried on the diplomatic list of that Government, and who is interested in public utilities on the Isthmus. I felt that a man mixed in so many things might have his mind perverted and at some time he might give the wrong advice and the result would be scandal."

Mr. Wallace was asked by Senator Morgan what first caused him to regard Mr. Cromwell with suspicion. Mr. Wallace replied that he looked over the report of the Panama Railroad Company and discovered that its board of directors had declared a dividend of more than $100,000 in excess of what the road had earned, and afterward sold bonds for money with which to repair its ships and rolling stock.

"I then reached the final conclusion," said Mr. Wallace, "that a man who would thus advise the Government is a dangerous man, and one having a tendency toward high finance."

In reply to other questions Mr. Wallace said he did not believe Mr. Cromwell could honestly and with safety to the Government act as counsel for the Government and the Panama Railroad Company and at the same time present a claim against the Government in behalf of the New Panama Canal Company.

Wouldn't answer many questions.

When Mr. Cromwell was a witness before the Senate Committee on Interoceanic Canals in the spring of 1906 he refused flatly to answer many questions put to him about the sale of the canal to the United States Government. Senator Morgan declared many times he would have Mr. Cromwell punished as a recalcitrant witness, but all these threats had no effect on Mr. Cromwell, who received them with bland smiles and kept on refusing to answer when he didn't like the question, until the end of the inquiry. Finally, in January of 1907, when the

Senate passed a bill placing the Panama Railroad Company, of which Mr. Cromwell was counsel, under the control of the Isthmian Canal Commission, Senator Morgan abandoned his efforts to have Cromwell punished for contumacy. He said his only desire was to have Cromwell eliminated from all connection with the Panama Canal.

There was one group of questions which Mr. Cromwell did answer and they related to the same subject involved in the matter laid before District-Attorney Jerome—the charge that Mr. Cromwell and some others had bought Panama Canal shares from the French stockholders in anticipation of an immense profit by the sale of the property to the United States. Mr. Cromwell then, as he did through the World yesterday, denied absolutely any such interest in the Old Panama Canal Company.

His testimony before committee.

Following is the testimony on that subject before the Senate committee, Senator Morgan being the questioner and Mr. Cromwell on the witness stand:

"What are the gross sums you and Mr. Farnham have received from all sources connected with the canal affair since that payment to J. P. Morgan & Co., whether from the Old or the New Panama Canal Company, or any shareholders or syndicate of expectant or actual shareholders in them, or either of them, or from the Panama Railroad Company, or from the United States, or from the Republic of Panama, and were such sums received by yourself and Mr. Farnham wholly or yourselves or partly to be paid to other persons?"

"Senator Morgan, I thank you for that question."

"Well, sir, I will be obliged to you not to express your compliments in public." (Laughter.)

"Well, my dear Senator, I think much better of you than you think I do. I thank you for this question."

12 "Please forbear to compliment me in public. I propose to answer it completely because it relates to a time subsequent to the transfer, as to which I consider that I am in duty bound to give this committee all information within my power."

"And nothing before?"

Denies he received a dollar.

"I do not consider it appropriate to discuss the period anterior; first, because this committee has no power to go into that subject; and, secondly, because it involves confidential communication. To the second question which you have asked me, I wish to give an explicit answer. I have not received one dollar of the $40,000,000 from the new Panama Canal Company. My final bill in that regard I will present in due course as any professional bill, and it will be substantial. It will be paid; of that I have no concern.

"I have not received from the Government of Panama a single penny for any purpose whatever. I have not received or obtained

benefit directly or indirectly in the remotest manner that human ingenuity could describe to the extent of a single farthing from any syndicate, combination, or party in connection with the sale of the Panama Canal. I was never interested in the securities of the new Panama Canal Company nor in the securities of the old Panama Canal Company. I never owned a dollar in either and never had a pecuniary interest of the remotest character in either, and consequently I never had a single dollar of benefit therefrom. My whole relation to the Panama Canal affair is that of counsel practising his profession purely as a lawyer and having no pecuniary interest in any one of the relations, direct or indirect, surrounding the Panama Canal. My sole compensation, or that of my firm, rather, has been the stipend paid by the Panama Railroad Company as its general counsel, which place we had occupied for ten years preceding the transfer to the United States and which we were requested to continue during the past two years."

Mr. Cromwell to other questions said his answer applied to Mr. Farnham and all other employees of his firm, as well as to himself.

New company is organized.

It was brought out by Senator Morgan on Dec. 27, 1899, that pursuant to a plan devised by Mr. Cromwell to Americanize the French Panama Canal Company he, with the aid of Francis Lynde Stetson, personal counsel to J. Pierpont Morgan, had the Panama Canal Company of America incorporated under the laws of New Jersey. The stated purposes of the company were to acquire by purchase the Panama Canal from the French company and complete its construction. The capital stock was fixed at $3,000,000, but the amount with which it commenced business was $5,000. The incorporators were stated to be William P. Chapman, jr., Henry W. Clark, and Francis D. Pollack. The names of Mr. Cromwell and Mr. Stetson appeared on the incorporation papers merely as subscribing witnesses.

A few months later, on March 21, 1900, the Interoceanic Canal Company, with a capital of $100,000,000, was organized with wider powers than the other company. Seven incorporators, all living in Jersey City, and claiming to own ten shares of stock each, were named in the paper.

Mr. Cromwell flatly refused to answer questions concerning who were behind these companies. He declared the projects were "abortive" and came to nothing. Senator Morgan tried to show the existence of an American syndicate organized by Mr. Cromwell to buy the Panama Canal from the French owners, but was unable to make any headway because of the tactics adopted by Mr. Cromwell.

Made Sheldon treasurer.

Mr. Cromwell has many gifts. He selected George R. Sheldon as treasurer of the Republican campaign committee. On July 7 last,

when it was announced in the newspaper despatches from Hot Springs, Va., that Candidate Taft purposed naming Representative W. B. McKinley as treasurer, he got a telegram from Mr. Cromwell asking him to delay the appointment until he could reach Hot Springs and talk the matter over. The next day Mr. Cromwell got to Hot Springs, had a long conference with Mr. Taft and that same day it was announced Mr. Sheldon had been chosen collector of the campaign funds. Mr. Cromwell and Mr. Sheldon are directors in some of the same corporations. Sheldon is regarded as a Morgan man in Wall street, while Cromwell is called a Harriman man.

Mr. Cromwell was one of the powers behind the throne at the Republican convention in Chicago which nominated Taft. He was one of the very few men who had a hand in drawing up the platform of the Republican party. He worked over it for days before the platform committee, which supposedly drew it, even saw it.

A friend of Harriman.

Mr. Cromwell helped Harriman knock Stuyvesant Fish out of the Illinois Central road and also helped Harriman beat down the minority stockholders of the Wells-Fargo Company when they tried to get a small share of the enormous surplus of the company in the form of increased dividends. It was in this fight that Cromwell, speaking of Harriman, uttered these historic words:

"He moves in a higher world into which we cannot hope to enter."

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious, and defamatory libel then and there, to wit, on the said fourth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company knowingly delivering, and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious, and defamatory newspaper article and libel in this count mentioned, at a certain store there situate, to wit, the post exchange, a mercantile concern then
13 and there dealing, amongst other things, in current newspapers; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the false, scandalous, malicious, and defamatory newspaper article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, print-

ing, and publishing the said false, scandalous, malicious, and defamatory libel, as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had, in fact, dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000 and had thereby secured for the said persons an enormous and exorbitant profit—and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawfully, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

THIRD COUNT.

And the grant jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day

of the finding and presentation of this indictment, Theodore Roovevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law, residing and practicing his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint stock company organized under the laws of France, and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal,

14 particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the

United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and southern district of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the seventh day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and southern district of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the first and second counts of this indictment set forth, and so having published the same respectively as in the said first and second counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did

falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish in the said newspaper, to wit, the said newspaper called the World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said southern district of New York, and particularly in the said fort and military post and reservation of West Point, as aforesaid, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000, from the said Compagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count mentioned, then and there were, and are, of the tenor which here follows, that is to say:

J. P. Morgan in Cromwell's canal syndicate deal—Chicago Daily News gathers in Paris facts regarding the $36,500,000 Panama transaction—"Government worked," says company's lawyer—"Shares considered practically worthless by thousands of peasants."

[Special to the World.]

Chicago, Oct. 6.—After the World published exclusively last Saturday the fact that a syndicate headed by William Nelson Cromwell, of New York, had reaped $36,500,000 profit in the sale of the securities of the French Panama Canal Company to the United States Government the Daily News cabled its correspondent in Paris to investigate the transaction. The result of the correspondent's inquiries is told in the following special cable published by the Daily News this afternoon:

Shares and influence.

"Paris, France, Oct. 6.—The agents of a French bank in Paris, who helped to conduct successfully the arrangements which led to the sale of the Panama Canal to the United States Government, express surprise that the part played in the negotiations by a group of American financiers should be considered in any way to their discredit.

"As one bank official said: 'These gentlemen were engaged for many months in buying up the old Panama shares at the cheapest rate possible. When they had enough shares, or enough influence, to control the fate of the canal, they man-

aged to bring to a successful issue the pourparlers with the American Government.'

"On several occasions political agents have been in Paris investigating reports that an American syndicate, and not the French company, really sold the canal to the United States, but they were unable to obtain the complete details. The last investigator was a certain Col. Bacon, who grew weary over the obstacles placed in his way, but who returned with sufficient data, so it is said, to 'make things hot' for the members of the syndicate concerned. These men, so say officials who came in contact with them here, were Charles P. Taft, William Nelson Cromwell, and J. Pierpont Morgan, the last named being much in the background. There were several others whose names cannot be given with certainty, but it is alleged that there is no mistake about the three names mentioned.

The Government "worked."

"When shown yesterday Mr. Taft's denial that he had anything to do with the matter, an eminent American lawyer here, concerned in the old company's affairs, laughed frankly and said:

"'They will have a hot time over this thing if it has been published as a campaign bomb. Agents of these men whose names I have given you, as well as of others whose identity I am not at liberty to disclose, quietly bought up for several months thousands of shares of the old Panama Company and many of the bonds of the new company all through the country. The small holders of canal paper hastened to take advantage of the 'free for nothing' gifts so unaccountably laid at their doors, for the shares for many years had been considered practically worthless by thousands of peasants and other modest owners.

"In the meantime at home the Government was being successfully worked by the syndicate, and especially by a western member thereof.

"Bought from its own citizens."

"'In reality the United States bought the canal from its own citizens instead of the French shareholders. The distinction was not here thought sufficiently important to require that attention be called to it, although I myself am inclined to think the United States could have made a better bargain—a far better bargain—by dealing directly with the French. This opinion has been disputed, but I am convinced of its truth.'

"M. Huntin, a prominent engineer of the old canal company and an opponent of the sale to the syndicate, said he thought the sum paid by the United States was sufficient, but that it never reached the shareholders of the old or new French companies, as the United States Government naively thought it did. Technically, however, added M. Huntin, the event was 'merely a financial transaction which is not calculated in these days to excite criticism of an adverse nature either in France or America.'"

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious, and defamatory libel then and there, to wit, on the said seventh day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company, knowingly delivering and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious, and defamatory newspaper article and libel in this count mentioned, at a certain store there situate, to wit, the post exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the false, scandalous, malicious, and defamatory article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet advisor of the President, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate, to acquire, and such syndicate has acquired the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,500,000.00 in advance of the acquisition and purchase of the same by the United States for the sum of $40,000,000.00, and had thereby secured for the said syndicate an enormous and exorbitant profit, to wit, a profit of $36,000,000.00—that the said Theodore Roosevelt and William Howard Taft as such President and Secretary, respectively, had dishonestly, fraudulently, corruptly, and criminally urged upon the Congress of the United States and procured the necessary legislation for acquiring and purchasing the said property and rights for the sum of $40,000,000.00—and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell as principals and as

accessories had engaged in and were suspected of having engaged in unlawful, dishonest, fraudulent, and criminal practices in the
16 nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust in connection with the said acquisition and purchase of the said property and proprietary rights whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickely, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing by the defendant hereinafter named of the offense in this count of this indictment mentioned was a Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a

corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the

consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession
17 has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the seventh day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the first and second counts of this indictment set forth, and so having published the same respectively as in the said first and second counts charged, contrived, and unlawfully, wickedly, and maliciously intended to injury, vilify, and prejudice the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them respectively to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in the said newspaper, to wit, the said newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the said fort and military post and reservation of West Point, as aforesaid, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count mentioned, then and there were, and are, of the same tenor as the newspaper article and libel set forth according to its tenor in the third count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious, and defamatory libel then and there, to wit, on the said seventh day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company knowingly delivering, and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious, and defamatory newspaper article and libel in this count mentioned, at a certain store there situate, to wit, the post exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the false, scandalous, malicious, and defamatory newspaper article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had combined together in a so-called syndicate to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,500,000.00, in advance of the said acquisition and purchase of the same by the United States for the sum of $40,000,000.00; that the said syndicate, having in fact, as it was so charged, acquired the shares of stock of the French Panama Canal Company (meaning the said New Panama Canal Company) and the other outstanding securities thereof with a view to selling the same to the United States, had, by dishonest, fraudulent, corrupt, and criminal methods, including with others the deceiving of the said President and Secretary of War as to the fact of such syndicate's having a pecuniary interest therein, and imposing upon those officers by means of their said relationship with them and the friendship existing between them, urged upon and secured from the Government of the United States legislation providing for the said acquisition of the said shares of stock and other securities and of the said property and proprietary rights of the said New Panama Canal Company, and urged upon and secured the purchase of the same by the United States; that the said syndicate had thereby dishonestly, fraudulently, corruptly, and criminally reaped an enormous profit, to wit, a profit of

$36,500,000.00, at the expense of the Treasury of the United States; and, generally, that the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of
18 United States officers and Members of Congress, and breaches of professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

FIFTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft, from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Com-

pany and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendation; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and southern district of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used

by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the fourteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation
19 of West Point, and in the said State and southern district of New York, the said Press Publishing Company, a corporation therefore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the first, second, and third counts of this indictment set forth, and so having published the same respectively as in the said first, second, and third counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, villify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them respectively to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in the said newspaper, to wit, the said newspaper called The World, then owned and published by it the said Press Publishing Company, and by it the said Press Publishing Company circulated throughout the United States and the said southern district of New York, and particularly in the said fort and military post and reservation of West Point, as aforesaid, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States for the sum of $40,000,000.00 from the said Campagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious and defamatory matters in print in this count mentioned, then and there were, and are, of the tenor which here follows, that is to say:

Panama secrets wiped out in Paris, June 3—Shortly before William H. Taft was nominated all records of new Panama Canal Company vanished—Who got $40,000,000 paid is still a mystery—Liquidation of company ceased suddenly—Its archives turned over to U. S.

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Paris, Oct. 13.—A careful investigation undertaken to learn definitely who got the $40,000,000 paid by the United States for the Panama Canal as the result of the sale negotiated by William Nelson Cromwell, of New York, with the Roosevelt adminstration discloses some curious facts.

The report that an American syndicate, organized some time prior to the sale, and including among its members Douglas Robinson, brother-in-law of President Roosevelt, and Charles P. Taft, brother of William H. Taft, the Republican candidate for President, had purchased a large amount of the securities of the Panama Canal Company when they were selling very low, and made a huge profit out of their share of the $40,000,000 paid by the United States is of interest in view of the disclosures as a result of the investigation undertaken by The World.

In the first place every source of official information as to the identity of those who got the $40,000,000 is not only closed, but wiped out, obliterated, as the result of an agreement between the United States Government and the new Panama Canal Company.

The liquidation of the new Panama Canal Company, whose securities the American syndicate was supposed to hold, was suddenly concluded June 3, after going on for four years.

It will be recalled that June 3 was practically on the eve of the convention at Chicago which nominated William H. Taft for President, though Mr. Taft was not actually nominated until June 18.

Immediately after the new Panama Canal Company finished its liquidation, on June 3, its office was closed, the books removed and all traces obliterated, and under an agreement with the United States all of its archives were handed over to that Government. All the secrets of the company are therefore now in the possession of the Roosevelt administration.

The liquidators of the new Panama Canal Company were its directors, and if, as reported, the company was controlled by the American syndicate, its directors would naturally not disclose any of its secrets which the syndicate members deemed best to keep from the public.

M. Lemarquis, liquidator of the old Panama Canal Company, was unable or unwilling to disclose anything concerning the personnel of the new Panama Canal Company, which, through Mr. Cromwell, effected the deal with the United States.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious, and defamatory libel then and there, to wit,

on the said fourteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and southern district of New York, was accomplished by the said Press Publishing Company knowingly delivering and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious and defamatory newspaper article and libel in this count mentioned, at a certain store there situate, to wit, the post exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers; it the said Press Publishing Company then and there well knowing all the premises in this indictment aforesaid, and well knowing the false, scandalous, malicious, and defamatory newspaper article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, and it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet advisor of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their personal ends and profit, and that these persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000; that the said Theodore Roosevelt and William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them the said Theodore Roosevelt and William Howard Taft in a so-called syndicate to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,500,000.00, in advance of such acquisition and purchase of the same by the United States; that the said syndicate did so acquire the same at such price; that the said Theodore Roosevelt and

William Howard Taft, in violation of their lawful duties as such President and Secretary of War, and for the purpose of concealing the dishonest, fraudulent, corrupt, and criminal transactions charged in the newspaper article and libel in this count mentioned, had obliterated, destroyed, and concealed all official books, documents, and other sources of official and other information bearing upon or recording the said transactions, and had concealed, and were endeavoring to conceal, all traces and evidence of such transactions from the public, and that they had concealed from the convention of the Republican party which assembled at the city of Chicago in the month of June, in the same year nineteen hundred and eight, all knowledge of the said transactions, dishonesty, fraud, corruption, and criminality, and thereby had dishonestly and corruptly promoted the candidacy and nomination of the said William Howard Taft for the office of President of the United States; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in and were suspected of having engaged in unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States contrary to the form of the statute of the same in such case made and provided.

SIXTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nine-

teen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense, in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Com-
21 pany, and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned

by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand, eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the sixteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the first, second, third, and fifth counts of this indictment set forth, and so having published the same, respectively, as in the said first, second, third, and fifth counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace; to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace and otherwise to stir up disorder among the people unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish in the said newspaper, to wit, the said newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the

said fort and military post and reservation of West Point, as aforesaid; that is to say, in the issue of that newspaper for the day in this count last above mentioned a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States for the sum of $40,000,000 from the said Compagnie Nouvelle du Canal de Panama of its said property and proprietary rights at the Isthmus of Panama preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus, which said newspaper article and libel and false, scandalous, malicious, and defamatory matters in print in this count mentioned then and there were and are of the tenor which here follows, that is to say:

22 Who got canal millions known in Washington—Noted lawyer hired by The World to investigate in Paris finds all records have disappeared—Now in possession of Roosevelt government—Documents show who actually got $40,000,000 paid for Panama Canal.

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Paris, Oct. 14.—In an effort to solve the mystery of the identity of those who got the $40,000,000 paid by the United States Government for the Panama Canal, The World retained one of the foremost English corporation lawyers to come here from London and conduct an investigation. He is a member of Parliament, a distinguished member of the Liberal party, and thoroughly versed in the procedure of the French courts, with which he has had long experience. He came here armed with exceptional credentials.

He has just rendered a statement of his findings, which is doubly interesting because of the report that very little of the $40,000,000 went to Frenchmen, but most of it to a syndicate of Americans, including, it is said, Douglas Robinson, brother-in-law of President Roosevelt, and Charles P. Taft, brother of William H. Taft, the candidate for President of the Republican party, and who was Secretary of War in 1904, at the time of the sale of the canal to the United States.

According to this report the American syndicate, confident that William Nelson Cromwell, the New York lawyer, and friend of President Roosevelt and Mr. Taft, would be successful in selling the Panama Canal to the United States, bought up the securities of the canal company at a ridiculously low price compared with the sum paid by the United States Government. Though the form was gone through of sending the $40,000,000 here through the banking house

of J. P. Morgan & Co., instead of French stockholders getting the money, it is believed that most of it was distributed to representatives of the American syndicate members.

The report made by The World's lawyer makes clear the fact that full information of the identity of those who got the $40,000,000 is in possession of the Roosevelt administration in Washington, all records of the payments having been turned over to the United States Government.

In his report the English lawyer retained by The World says:

Company has vanished.

"I have never known, in my lengthy experience of company matters, any public corporation, much less one of such vast importance, having so completely disappeared and removed all traces of its existence as the New Panama Canal Company.

"This company having purchased the assets of the Compagnie Universelle de Panama (the old or De Lesseps Panama Canal Company), brought off the deal with the American Government. So thorough has been its obliteration that only the United States Government can now give information respecting the new company's transactions and the identity of the individuals who created it to effectuate this deal, and who, for reasons best known to themselves, wiped it off the face of the earth when the deal was carried through.

"Under the terms of the agreement

[Continued on third page.]

Washington knows the canal grafters.

[Continued from first page.]

between the United States and the New Panama Canal Company the United States not only took over all the rights of that company on the Isthmus of Panama, but, to quote from the contract, 'the plans and archives at Paris.'

"M. Lemarquis, the official liquidator of the Compagnie Universelle de Panama, which sold its interest to the now vanished company, was seen, but in answer to inquiries, said:

"'I know nothing of the books or transactions of the New Panama Canal Company. I can give no information concerning them, nor do I know anybody who can.'

"Leading French lawyers were also consulted, and they declared there was no machinery, legal or otherwise, by which its records could be brought to light.

Mysterious from the outset.

"A brief account of this company proves how mysterious is its history and how effectual were the precautions taken from its very inception to cover up its tracks.

"The new company, which acquired all the rights of the old company, was formed Dec. 21, 1894, with a capital of 65,000,000 francs, divided into 650,000 shares. Of these 600,000 shares were subscribed for in cash and the remaining 50,000 shares, fully paid, were given the Colombian Government, of which the Panama Isthmus was then a territorial part.

"This stock of the new company was originally registered, so transactions in it could be traced, but power was subsequently obtained to transform it into 'bearer' stock, which passed from hand to hand without any record being preserved.

"The only list available is of the original stockholders, lodged with the Tribunal of Commerce in Paris, but this is worthless, as it fails to show the names of the owners of the stock at the time of the liquidation of the company and who actually received their proportions of the purchase money paid by the United States.

The opportune revolution.

"The extremely opportune Panama revolution relieved the new company of its obligations to Colombia, it being held that sovereignty having passed from Colombia, she was not entitled to compensation for property now possessed by another sovereign state—Panama.

"The money was duly paid over by the United States to the new company, but no record exists here of a single person who received the money or the proportions in which it was paid.

"The liquidation of the new company was finally closed on June 30, last, and the offices of the liquidators were shut. No one is there to give the slightest information concerning it, although questions are still arising necessitating information.

"The American ambassador here was entitled by the agreement to all the archives of the company for his Government, and those archives should include a list of the persons who received the purchase money paid to the United States.

23 "It lies, therefore, in the hands of the Washington authorities to disclose the names of the persons who profited by this gigantic and most suspicious deal."

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious, and defamatory libel then and there, to wit, on the said sixteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company knowingly delivering, and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious, and defamatory newspaper article and libel in this count mentioned, at a certain store

there situate, to wit, the Post Exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the false, scandalous, malicious, and defamatory newspaper article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their personal ends and profit, and that those persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000; that the said Theodore Roosevelt and William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate, to acquire, and such syndicate had acquired, the said property and rights of the said New Panama Canal Company at a very low price, in advance of the acquisition and purchase of the same by the United States; that the said Theodore Roosevelt and William Howard Taft, in violation of their lawful duties as such President and Secretary of War, and for the purpose of concealing the dishonest, fraudulent, corrupt, and criminal transactions so in this count charged, had obliterated, destroyed, and concealed all official books, documents, and other sources of official and other information bearing upon or recording the said transactions, and had concealed, and were endeavoring to conceal, all traces and evidence of such transactions from the public; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William

Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in and were suspected of having engaged in unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

[illegible]NTH COUNT.

And the grand jurors [illegible]esaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell,
24 during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in the year eighteen hundred and eighty-eight

the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law the make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, further present that during the said period of time in this count first above mentioned there has existed a certain tract of land, consisting of a large number of acres, to wit, two thousand acres, in the county of Orange and in the said State and Southern District of New York,

purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, and used by the United States as a fort and military post and reservation, under the name of West Point, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, cede by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever.

And the grand jurors aforesaid, upon their oath aforesaid, further present that during the said period of time, to wit, on the nineteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation of West Point, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the first, second, third, fifth, and sixth counts of this indictment set forth, and so having published the same, respectively, as in the said first, second, third, fifth, and sixth counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, maliciously, and scandalously compose, write, print, and publish, in the said newspaper, to wit, the said newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the said fort and military post and reservation of West Point, as aforesaid, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the said matter of the acquisition and purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its said property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus; which said newspaper article and libel and false, scandalous, malicious, and

defamatory matters in print in this count mentioned then and there were, and are, of the tenor following, that is to say:

List of shares in canal millions can not be found—Records turned over to Roosevelt administration by the French Panama Company showing receipts for $40,000,000 may have been destroyed is Washington rumor—The World's efforts to examine them futile—History of the legislation authorizing purchase and construction of the Isthmian waterway presents some remarkable chapters only now coming to light.

Efforts by the World to obtain from government officials in Washington the records turned over by the New Panama Canal Company, showing who got the $40,000,000 paid by the United States for the canal have so far been unavailing. There are unofficial rumors that those portions of the records containing the names of the actual recipients of the $40,000,000 have been destroyed.

If this is so, it will be impossible to officially ascertain the names of the members of the American syndicate who are supposed to have bought up the securities of the canal company at very low prices from the French holders, confident that William Nelson Cromwell, because of his extraordinary influence with President Roosevelt and the then Secretary of War, William H. Taft, would succeed in unloading the canal on the United States at a fancy figure which would give the syndicate a huge profit.

Say Sheldon was in.

It was stated yesterday that an alleged member of the syndicate was George R. Sheldon, the banker, of No. 2 Wall street, who is treasurer of the Republican national committee and is collecting campaign funds in behalf of Mr. Taft. The appointment of Mr. Sheldon as treasurer of the committee was dictated by William Nelson Cromwell, who sold the canal to the United States and who is the directing head behind the throne of the Taft campaign. Mr. Cromwell is E. H. Harriman's lawyer. Mr. Taft had selected Representative McKinley as his campaign treasurer, and when Mr. Cromwell learned of this he telegraphed Mr. Taft, who was then at Hot Springs, to withhold the appointment until he could see him.

Mr. Cromwell reached Hot Springs the following day, and the same day Mr. Sheldon's appointment as treasurer of the Republican national committee was announced.

Mr. Cromwell and Mr. Sheldon are directors in some of the same corporations. Mr. Sheldon is the representative of J. Pierpont Morgan in several corporations and is regarded as a Morgan man in the Wall street district.

Mr. Cromwell is on record before the Interoceanic Canal Committee of the United States Senate as having sworn he did not make a penny of profit out of the $40,000,000 sale outside of his fee as counsel for the French-Panama Canal Company. Search has failed to reveal

any record of his having sworn that Americans did not share in the $40,000,000 paid by this Government supposedly to the French holders of the French Canal Company.

Financing of the scheme.

According to information obtained by the World yesterday, the members of the American syndicate found it necessary to raise a fund of only $3,000,000 to get a substantial share of the securities of the French company. There was also a large subscription to the Republican national campaign fund by which it is said the support of the late Senator Mark Hanna was won over to the Panama route as against the Nicaragua route, which many engineers conceived to be more feasible and cheaper. Senator Hanna was at that time the most influential member of the United States Senate, and he is credited with having won over the requisite number of Senators to practically commit the Government to the route which Mr. Cromwell had for sale and by which the American syndicate expected to reap a big profit.

Mr. Cromwell as the selling agent of the canal was not idle at this time. He had a literary bureau at work, and it is said checks were sent every month to 225 newspapers in the interior of the country in payment for printing the product of the literary bureau. All of this product was to show the advantages of the Panama route over the Nicaraguan route and to build up a public sentiment in favor of the former.

Then the Spooner act was passed, with the assistance of Senator Hanna and the Senators whom he rounded up to its support following the big contribution to the Republican campaign funds of 1900.

The Spooner act is a marvelously drawn statute. Many persons familiar with Mr. Cromwell's adroitness in phrase making and hiding stupendous powers behind seemingly harmless authorizations declare that Mr. Cromwell himself drew up the Spooner act. It committed the Nation to building an interoceanic canal by the Panama route, providing a clear title and concessions could be obtained, the cost of construction to be $135,000,000. Extraordinary features were the powers it conferred upon the President.

William McKinley was then President of the United States. A man familiar with what went on at that time within the Panama ring said yesterday that had Mr. Roosevelt been President the men who had the Spooner act phrased as it was would have hesitated to place such sweeping powers in the hands of the President, notwithstanding their intense desire to sell the Panama Canal to the Government and the big profits such a transaction meant to them.

Powers of the President.

The Spooner act makes the President absolute dictator of the whole canal building enterprise. He can change the commissions and the engineers at will.

Some of the Senators who favored the Nicaraguan route voted for the Spooner bill, believing it would be impossible for the advocates of the Panama route to get a clear title and the necessary concessions from the Government of Colombia, of which the canal was then a territorial part. As the spooner act committed the Government to building an Isthmian canal, these Senators were confi-
26 dent the Nicaraguan route would have to be taken in the end.

Mr. Cromwell fooled those Senators. Failing to get what was needed from Colombia in the way of concessions to give the clear title demanded by the Spooner Act, he manufactured the revolution which took the Isthmus away from Colombia and created the Republic of Panama. He promised the revolutionists that United States war ships would be on hand when wanted, and they were there to the dot. That Mr. Cromwell had the assistance of President Roosevelt, Secretary Taft and other high officials of the Roosevelt administration in making a success of the revolution, which deprived the little Government of Colombia of a very valuable part of its territory, has never been effectively disproved.

The ready-made Republic of Panama appointed Mr. Cromwell its legal adviser, and he saw to it that it gave the United States everything it wanted in the way of canal concessions. Then the sale of the canal for $40,000,000 was rushed through and the money was turned over in May, 1904, to J. P. Morgan & Co., ostensibly for transmission to France to the French Panama Canal Company for distribution to the stockholders.

Contributed to the revolution.

That Mr. Cromwell contributed funds to the revolutionary party in Panama was admitted by Mr. Cromwell himself, and in the presence of Secretary of War Taft. This admission was made, it was learned yesterday, at a banquet given on the Isthmus in December, 1904. Mr. Cromwell and Secretary Taft were guests at the dinner, also the leading officials of the Republic. In his speech Cromwell referred to a provision of the constitution of Panama which gave all financial contributors to the revolution the right to citizenship. Cromwell declared he had contributed largely to the revolutionists' treasury and was therefore entitled to citizenship.

The World's informant stated it was well known on the Isthmus that the money given to the revolutionary party was used to bribe the 300 Colombian soldiers on duty in Panama on the day of the revolution, so they would do no fighting and make the revolution a bloodless one. In other words, the money thus contributed was used to make the soldiers traitors to their country.

By those who know the inner secrets of canal affairs it is declared that the lock system was forced upon the country by President Roosevelt in the face of a report recommending a sea level canal, made by a majority of the engineers who were appointed to determine that important matter. A lock system or high level canal was favored in a minority report.

The sea level canal would have cost $300,000,000 to build, whereas the report of the minority, who recommended the lock system, declared it could be built within the $135,000,000 stipulated by the Spooner Act. It was pointed out to President Roosevelt by Mr. Cromwell that if the $300,000,000 sea-level plan was decided upon the Spooner Act would have to be resubmitted to Congress, and another Congress, in drawing up a new canal law, would never give him the extraordinary powers which the Spooner Act conferred upon the President when William McKinley held that office.

The power of Mr. Cromwell in canal affairs at this time and throughout Mr. Taft's term as Secretary of War was deemed strange. Though he was merely counsel for the Panama Republic and its fiscal agent and otherwise a corporation lawyer and private citizen holding no official position under the United States Government, he was really the chief power in canal affairs, and possibly may still be.

Mr. Cromwell's power was defined by Secretary Taft himself in the statement he made following the resignation of John F. Wallace as chief engineer of the canal in June, 1905. In a formal statement explaining why Mr. Cromwell was present when Mr. Wallace insisted upon a private interview with the Secretary of War, Mr. Taft said:

Mr. Cromwell for some time had been charged by the President and Secretary of War with general advisory duties in all Panama canal affairs.

Though President Roosevelt and Secretary Taft berated Mr. Wallace publicly for resigning, charging him with deserting an important Government post for a higher salary offered by a private corporation, it is known that Mr. Wallace's real reason for resigning was his refusal "to be a tool of Cromwell" in canal matters. Holding no official position and being responsible to nobody, it is said that Mr. Cromwell's word was law in all matters pertaining to the canal, by reason of the strange confidence reposed in him by the President and Secretary of War.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present, that the said publication of the last-mentioned false, scandalous, malicious and defamatory libel then and there, to wit, on the said nineteenth day of October, in the year nineteen hundred and eight, at and within the said fort and military post and reservation, and in the said State and Southern District of New York, was accomplished by the said Press Publishing Company knowingly delivering and causing to be delivered, for perusal by persons residing at the said fort and military post and reservation, a large number of copies, to wit, twenty-nine copies, of the said newspaper, so then and there containing the false, scandalous, malicious and defamatory newspaper article and libel in this count mentioned, at a certain store there situate, to wit, the Post Exchange, a mercantile concern then and there dealing, amongst other things, in current newspapers; it the said Press Publishing Company then and there well knowing all the premises in this indictment aforesaid, and well knowing the

false, scandalous, malicious and defamatory article and libel in this count set forth to be, as it then and there was, so printed in each of the said copies of the said newspaper, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there
27 did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company; that the said Theodore Roosevelt and the said William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them the said Theodore Roosevelt and William Howard Taft in a so-called syndicate, to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,000,000.00, in advance of the acquisition and purchase of the same by the United States for the sum of $40,000,000.00; that the said syndicate did so acquire the same at such price, and had thereby secured an enormous profit; that the said Theodore Roosevelt and William Howard Taft, as such President and Secretary respectively, had dishonestly, fraudulently, corruptly, and criminally urged upon the Congress of the United States, and procured the necessary legislation for acquiring and purchasing the said property and rights for the sum of $40,000,000.00; that the said Theodore Roosevelt and William Howard Taft, in violation of their said lawful duties, and for the purpose of concealing the dishonest, fraudulent, corrupt, and criminal transactions so in this count charged, had obliterated, destroyed, and concealed all official books, documents, and other sources of official and other information bearing upon or recording the said transactions, and had concealed, and were endeavoring to conceal, all traces and evidence

of such transactions from the public; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

EIGHTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft, from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practicing his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama, in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company), organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were
28 disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, and to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of

land in the Borough of Manhattan, in the city of New York, in the said State and southern district of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park Place, and Mail street in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the third day of October, in the year nineteen hundred and eight, at and within the said post-office building, in the said State and southern district of New York, the Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in a certain newspaper, to wit, a newspaper called The World, then owned and published by the said Press Publishing Company, and circulating throughout the United States and the said southern district of New York, and particularly in the said post-office building, that is to say, in the issues of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the first count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office in room 106 of the said post-office building, a copy of the said newspaper, so then and there containing the last-mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer and there, to wit, in the said post-office building, by him read and understood; it the said Press Publishing Company then and there well knowing all the premises in this indictment aforesaid,

29 and well knowing the said false, malicious, scandalous, and defamatory newspaper article and libel mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company, a corporation as aforesaid, then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory newspaper article and libel as in this count charged, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly, that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, to wit, a profit amounting to the sum of $36,500,000.00, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and

professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count of this indictment aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a certain criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

NINTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and had had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company), organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but

had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the Borough of Manhattan, in the city of New York, and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York, and ever since such cession has been exercised by the United States,

together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park place, and Mail street in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the fourth day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and Southern District of New York, the Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libel in the eighth count of this indictment referred to, and so having published the same as in the said eighth count charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in a certain newspaper, to wit, a newspaper called The World, then owned and published by the said Press Publishing Company, and circulating throughout the United States and the said Southern District of New York, and particularly in the said post-office building, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the second count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to them and there was accomplished by the said Press Publishing Company know-

ingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office, in Room 106, of the said post-office building, a copy of the said newspaper, so then and there containing the last mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer, and there, to wit, in the said post-office building, by him read and understood; it the said Press Publishing Company then and there well knowing all the premises in this indictment aforesaid, and well knowing the said false, malicious, scandalous, and defamatory newspaper article and libel mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company, corporation as aforesaid, then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory newspaper article and libel, as in this count charged, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly
31 that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had, in fact, dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000.00—and had thereby secured for the said persons an enormous profit—and generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count of this indictment aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

TENTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft, from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama, in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company), organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were dis-

posed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done; and, generally, to investigate fully, so as to determine the most feasible and practicable route for a canal across the said isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned
32 by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the borough of Manhattan, in the city of New York, and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purcase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park Row, and Mail street, in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the seventh day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the eighth and ninth counts of this indictment referred to, and so having published the same as in the said eighth and ninth counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them respectfully to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in a certain newspaper, to wit, a newspaper called The World, then owned and published by the said Press Publishing Company and by the said Press Publishing Company circulated throughout the United States and the said Southern District of New York, and particularly in the said post-office building; that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the third count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office

in room 106 of the said post-office building, a copy of the said newspaper, so then and there containing the last-mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer, and there, to wit, in the said post-office building, by him read and understood; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the said false, scandalous, malicious, and defamatory article mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as cabinet adviser of the President, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them, the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate, to acquire, and such syndicate had acquired, the said property and rights of the said New Panama Canal Company at a very low price,
to wit, for the sum of $3,500,000.00, in advance of the acquisi-
33 tion and purchase of the same by the United States for the sum of $40,000,000.00, and had thereby secured for the said syndicate an enormous and exorbitant profit, to wit, a profit of $36,500,000.00; that the said Theodore Roosevelt and William Howard Taft, as such President and Secretary respectively, had dishonestly, fraudulently, corruptly, and criminally urged upon the Congress of the United States, and procured, the necessary legislation for acquiring and purchasing the said property and rights for the sum of $40,000,000.00, and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Tatf, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby

they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

ELEVENTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft, from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law, residing and practising his profession in city of New York, in the State of New York, and has for one of his clients the Compagnie Nouvelle du Canal de Panama, in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes refered to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company), organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that there-

after, in the year eighteen hundred and ninety-four, the property rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done; and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided, a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and pur-
31 chased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the Borough of Manhattan, in the city of New York, and in the said State and southern district of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park place, and Mail street, in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the seventh day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and southern district of New York, the said Press Publishing Comapny, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, as having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the eighth, ninth, and tenth counts of this indictment referred to, and so having published the same as in the said eighth, ninth, and tenth counts charged, contriving, and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish in a certain newspaper, to wit, a newspaper called The World, then owned and published by it the said Press Publishing Company and by the said Press Publishing Company circulated throughout the United States and the said southern district of New York, and particularly in the said post-office building—that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00 from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper articles referred to in the tenth and set forth in full in the third count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office in room 106 of the said post-office building, a copy of the said newspaper,

so then and there containing the last-mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer and there, to wit, in the said post-office building, by him read and understood; it the said Press Publishing Company then and there, well knowing all the premises in this indictment aforesaid, and well knowing the said false, scandalous, malicious, and defamatory article mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge and convey to a reader thereof the idea particularly that the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had combined together in a so-called syndicate to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,500,000.00 in advance of the said acquisition and purchase of the same by the United States for the sum of $40,000,000.00, that the said syndicate, having, in fact, as it was so charged, acquired the shares of stock of the French Panama Canal Company (meaning the said New Panama Canal Company) and the other outstanding securities thereof with a view to selling the same to the United States, had, by dishonest, fraudulent, corrupt, and criminal methods, including with others the deceiving of the said President and Secretary of War as to the fact of such syndicate's having a pecuniary interest therein, and imposing upon those officers by means of their said relationship with them and the friendship existing between them, urged upon and secured from the Government of the United States legislation providing for the
32 said acquisition of the said shares of stock and other securities and of the said property and proprietary rights of the said New Panama Canal Company, and urged upon and secured the purchase of the same by the United States; that the said syndicate had thereby dishonestly, fraudulently, corruptly, and criminally reaped an enormous profit, to wit, a profit of $36,500,000.00, at the expense of the Treasury of the United States; and, generally, that the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, as principals, and as accessories, had engaged in and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of United States officers and members of Congress, and breaches of professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company in manner and form and at the time in this count aforesaid and in a place which had been ceded to and was and is under the jurisdiction of the United States unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

TWELFTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell during all the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment has been and is an attorney and counsellor at law residing and practicing his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama, in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that in the year eighteen hundred and eighty-eight the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie du Canal de Panama, a joint-

stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practical route; to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire for and on behalf of the United States at a cost not exceeding forty millions of dollars the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the Borough of Manhattan, in the city of New York, and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a
36 needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever, which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park place, and Mail street, in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the

fourteenth day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper, the false, scandalous, malicious, and defamatory libels in the eighth, ninth, and tenth counts of this indictment referred to, and so having published the same as in the said eighth, ninth, and tenth counts charged, contriving, and unlawfully, wickedly, and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them respectively to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish in a certain newspaper, to wit, a newspaper called The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the said post-office building, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article, then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that Isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the fifth count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to, then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered to one Walter S. Mayer, post-office inspector in charge, at his office in room 106 of the said post-office building, a copy of the said newspaper, so then and there containing the last-mentioned

false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer, and there, to wit, in the said post-office building, by him read and understood; it, the said Press Publishing Company, then and there, well knowing all the premises in this indictment aforesaid, and well knowing the said false, scandalous, malicious, and defamatory article mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their personal ends and profit, and that those persons had in fact dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000.00; that the said Theodore Roosevelt and William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them, the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate, to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,500,000.00, in advance of such acquisition and purchase of the same by the United States;

that the said syndicate did so acquire the same at such price;

37 that the said Theodore Roosevelt and William Howard Taft, in violation of their lawful duties as such President and Secretary of War, and for the purpose of concealing his dishonest, fraudulent, corrupt, and criminal transactions charged in the newspaper article and libel in this count mentioned, had obliterated, destroyed, and concealed all official books, documets, and other sources of official and other information bearing upon or recording the said transaction.

and had concealed, and were endeavoring to conceal, all traces and evidence of such transactions from the public, and that they had concealed from the convention of the Republican party, which assembled at the city of Chicago in the month of June, in the same year nineteen hundred and eight, all knowledge of the said transactions, dishonesty, fraud, corruption, and criminality, and thereby had dishonestly and corruptly promoted the candidacy and nomination of the said William Howard Taft for the office of President of the United States; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign government, and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

THIRTEENTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell,

during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Compagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Compagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company) organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator) pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Compagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock,
38 not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a

satisfactory title to all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineten hundred and four, acquired and purchased by the United States for the sum of $40,000,000.00.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the borough of Manhattan, in the city of New York, and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park place, and Mail street, in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the said period of time, to wit, on the sixteenth day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper, the false, scandalous, malicious, and defamatory libels in the eighth, ninth, tenth, and twelfth counts of this indictment referred to, and so having published the same as in the said eighth, ninth, tenth, and twelfth counts charged, again contriving and unlawfully, wickedly and maliciously intending to injure, vilify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace, to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish, in a certain newspaper, to wit, a newspaper called The World, then owned and published by it the said Press Publishing Company and by it the said Press Publishing Company circulated throughout the United States and the said Southern District of New York, and particularly in the said post-office building, that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and

concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the sixth count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office in room 106 of the said post-office building, a copy of the said newspaper, so then and there containing the last mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer and there, to wit, in the said post-office building, by him read and understood; it the said Press Publishing Company then and there well knowing all the premises in this indictment aforesaid, and well knowing the said false, scandalous, malicious, and defamatory article mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Press Publishing Company, then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory libel as in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as cabinet adviser of the President, had, before the event, and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their personal ends and profit, and that those persons had, in fact, dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the

information that the Government of the United States was
39 about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company for the sum of $40,000,000.00; that the said Thodore Roosevelt and William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate to acquire, and such syndicate had acquired, the said property and rights of the said New Panama Canal Company at a very low price, in advance of the acquisition and purchase of the same by the United States; that the said Theodore Roosevelt and William Howard Taft, in violation of their lawful duties as such President and Secretary of War, and for the purpose of concealing the dishonest, fraudulent, corrupt, and criminal transactions so in this count charged, had obliterated, destroyed, and concealed all official books, documents, and other sources of official and other information bearing upon or recording the said transactions, and had concealed, and were endeavoring to conceal, all traces and evidence of such transactions from the public; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by United States officers and Members of Congress and of officers of foreign governments, interference with the affairs of foreign governments and breaches of official and professional trust, in connection with the said acquisition and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the form of the statute of the same in such case made and provided.

FOURTEENTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that during the period of time from the fourteenth

day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, Theodore Roosevelt has been President of the United States, while Douglas Robinson was and is a brother-in-law of the said Theodore Roosevelt; that William Howard Taft from the first day of February, in the year nineteen hundred and four, until the thirtieth day of June, in the year nineteen hundred and eight, was Secretary of War of the United States, and at the time of the committing, by the defendant hereinafter named, of the offense in this count of this indictment mentioned, was the Republican candidate and nominee for the office of President of the United States, and Charles P. Taft was a brother of the said William Howard Taft; that William Nelson Cromwell, during all of the said period of time from the said fourteenth day of September, in the year nineteen hundred and one, to the day of the finding and presentation of this indictment, has been and is an attorney and counsellor at law residing and practising his profession in the city of New York, in the State of New York, and has had for one of his clients the Campagnie Nouvelle du Canal de Panama in this count of this indictment hereafter mentioned.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that in the year eighteen hundred and eighty-eight, the Campagnie Universelle du Canal Interoceanique de Panama, a corporation (sometimes referred to as the De Lesseps Canal Company and sometimes as the Old Panama Canal Company), organized under the laws of France, which had acquired certain concessions from the Republic of Colombia to construct a maritime canal across the Isthmus of Panama, had commenced to construct such canal, but had failed to complete the same, became insolvent, and its affairs were placed in the hands of a receiver (in France called a liquidator), pursuant to proceedings to that end in the French courts; that thereafter, in the year eighteen hundred and ninety-four, the property, rights, franchises, and concessions of the said corporation were disposed of by the said liquidator to the Campagnie Nouvelle du Canal de Panama, a joint-stock company organized under the laws of France and sometimes called the New Panama Canal Company, which company carried forward the work of constructing the said canal, but not to completion; that after that, and in the year eighteen hundred and ninety-nine, the President of the United States was authorized by law to make an investigation of the Isthmus of Panama with a view to the construction of a canal across the same by the United States, to investigate the available routes for such canal, particularly the Nicaraguan and the Panama routes, with a view to determining what was the most practicable route, to ascertain what rights and franchises were already held by others in that connection, and what work had been done, and, generally, to investigate fully so as to determine the most feasible and practicable route for a canal across the said Isthmus and the cost of constructing the same by the United States, and report the result of his investigations to Congress with his recommendations; that thereafter, in the year nineteen hundred and two, the

President of the United States was, by the act of Congress approved June twenty-eight, in that year, "authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of the said canal company, provided a satisfactory title of all of the said property" could be obtained; and that the said property and proprietary rights were, in fact, thereafter, to wit, in the year nineteen hundred and four, acquired and purchased by the United States for the sum of $40,000,000.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time in this count of this indictment first above mentioned there has existed a certain tract of land in the Borough of Manhattan, in the city of New York, and in the said State and Southern District of New York, purchased and accepted by the Congress of the United States, by the consent of the legislature of the said State of New York, whereon has stood a needful building used by the United States as a post-office, over which said tract exclusive jurisdiction was, long before the said period and subsequent to such purchase, ceded by the State of New York to, and ever since such cession has been exercised by, the United States, together with exclusive legislation in all cases whatsoever; which said tract of land in this count of this indictment mentioned is one bounded by Broadway, Park place, and Mail street, in the said borough.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that during the said period of time, to wit, on the nineteenth day of October, in the year nineteen hundred and eight, at and within the said post-office building, and in the said State and Southern District of New York, the said Press Publishing Company, a corporation theretofore organized and then existing and doing business under and by virtue of the laws of the said State of New York, so having composed, written, and printed in the said newspaper the false, scandalous, malicious, and defamatory libels in the eighth, ninth, tenth, twelfth, and thirteenth counts of this indictment referred to, and so having published the same as in the said eighth, ninth, tenth, twelfth, and thirteenth counts charged, again contriving and unlawfully, wickedly, and maliciously intending to injure, villify, and prejudice the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and each of them, to deprive each of them of his good name, fame, credit, and reputation, expose him to hatred, contempt, ridicule, and obloquy, bring him into great scandal, infamy, and disgrace,

to excite, induce, tempt, and cause them, respectively, to commit breaches of the peace, and otherwise to stir up disorder among the people, unlawfully did falsely, wickedly, knowingly, maliciously, and scandalously compose, write, print, and publish in a certain newspaper, to wit, a newspaper caller The World, then owned and published by it, the said Press Publishing Company, and by it, the said Press Publishing Company, circulated throughout the United States and the said Southern District of New York, and particularly in the said post-office building; that is to say, in the issue of that newspaper for the day in this count last above mentioned, a certain other false, scandalous, malicious, and defamatory libel in the form of a newspaper article then and there containing divers false, scandalous, malicious, and defamatory matters in print of and concerning the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, and of and concerning the matter of the purchase, in the year nineteen hundred and four, by the Government of the United States, for the sum of $40,000,000.00, from the said Compagnie Nouvelle du Canal de Panama, of its property and proprietary rights at the Isthmus of Panama, preliminary to the construction by the Government of the United States of the Panama Canal across that isthmus; which said newspaper article and libel, and false, scandalous, malicious, and defamatory matters in print in this count referred to, then and there were, and are, of the same tenor as the newspaper article set forth in full in the seventh count of this indictment.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said publication, at the time and place in this count of this indictment mentioned, of the false, scandalous, malicious, and defamatory libel in this count referred to then and there was accomplished by the said Press Publishing Company knowingly delivering by mail of the United States, and causing to be delivered, to one Walter S. Mayer, post-office inspector in charge, at his office in room 106 of the said post-office building, a copy of the said newspaper, so then and there containing the last-mentioned false, scandalous, malicious, and defamatory newspaper article and libel, which said newspaper article and libel was thereupon there received by the said Walter S. Mayer, and there, to wit, in the said post-office building, by him read and understood; it, the said Press Publishing Company, then and there well knowing all the premises in this indictment aforesaid, and well knowing the said false, scandalous, malicious, and defamatory article mentioned in this count to be printed in the said copy of the said newspaper so delivered and caused to be delivered to the said Walter S. Mayer, and well knowing the same to be, as it then and there was, and is, false.

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Press Publishing Company then and there, to wit, at the time and place of so composing, writing, printing, and publishing the said false, scandalous, malicious, and defamatory

libel in this count aforesaid, in and by the same did mean and intend to charge, and the same taken as a whole then and there did, and does, mean and charge, and convey to a reader thereof the idea, particularly that the said Theodore Roosevelt, in violation of his lawful duty as President of the United States, and the said William Howard Taft, in violation of his lawful duty as Secretary of War and as Cabinet adviser of the President, had, before the event,
41 and before it was known to the public, dishonestly, fraudulently, corruptly, and criminally disclosed to other and unofficial persons, to wit, the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, in order that those persons might make use of the same for their own personal ends and profit, and that those persons had, in fact, dishonestly, fraudulently, corruptly, and criminally accepted and made use of the same for their own personal ends and profit, the information that the Government of the United States was about to acquire and purchase the said property and proprietary rights of the said New Panama Canal Company; that the said Theodore Roosevelt and the said William Howard Taft, in violation of their said duties, had dishonestly, fraudulently, corruptly, and criminally combined with the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and with others, and the said Douglas Robinson, Charles P. Taft, and William Nelson Cromwell had in like manner combined with them, the said Theodore Roosevelt and William Howard Taft, in a so-called syndicate, to acquire the said property and rights of the said New Panama Canal Company at a very low price, to wit, for the sum of $3,000,000.00, in advance of the acquisition and purchase of the same by the United States for the sum of $40,000,000.00; that the said syndicate did so acquire the same at such price, and had thereby secured an enormous profit; that the said Theodore Roosevelt and William Howard Taft, as such President and Secretary, respectively, had dishonestly, fraudulently, corruptly, and criminally urged upon the Congress of the United States, and procured, the necessary legislation for acquiring and purchasing the said property and rights for the sum of $40,000,000.00; that the said Theodore Roosevelt and William Howard Taft, in violation of their said lawful duties, and for
42 the purpose of concealing the dishonest, fraudulent, corrupt, and criminal transactions so in this count charged, had obliterated, destroyed, and concealed all official books, documents, and other sources of official and other information bearing upon or recording the said transactions, and had concealed, and were endeavoring to conceal, all traces and evidence of such transactions from the public; and, generally, that the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, as principals and as accessories, had engaged in, and were suspected of having engaged in, unlawful, dishonest, fraudulent, and criminal practices in the nature of conspiracy to defraud the United States and others, bribery of and by the United States officers and Members of Congress and of officers of foreign governments, inter-

ference with the affairs of foreign governments, and breaches of official and professional trust, in connection with the said acquisitions and purchase of the said property and proprietary rights, whereby they secured for themselves without right enormous sums of money from the Treasury of the United States.

And so the grand jurors aforesaid, upon their oath aforesaid, do say that the said Press Publishing Company, in manner and form and at the time in this count aforesaid, and in a place which had been ceded to and was, and is, under the jurisdiction of the United States, unlawfully did commit the offense of falsely, wickedly, knowingly, maliciously, and scandalously composing, writing, printing, and publishing a criminal libel upon the said Theodore Roosevelt, Douglas Robinson, William Howard Taft, Charles P. Taft, and William Nelson Cromwell, to their great damage, scandal, infamy, and disgrace, to the evil example of all others in like case offending, and against the peace and dignity of the United States and contrary to the
43 form of the statute of the same in such case made and provided.

HENRY L. STIMSON,
United States Attorney.

Schedule.

Dates of articles.	Counts.	
	Post exchange.	Walter S. Mayer.
Oct. 3, 1908	1	8
" 4, "	2	9
" 7, "	3	10
" 7, "	4	11
" 14, "	5	12
" 16, "	6	14
" 19, "	7	13

(Endorsed:) U. S. Circuit Court, Southern Dist. of N. Y. The United States of America vs. Press Publishing Company. Indictment. Henry L. Stimson, U. S. attorney. So. Dist. of N. Y. A true bill, Joseph W. Teets, foreman. U. S. Circuit Court, Southern District N. Y. Filed Mar. 4, 1909. John A. Shields, clerk.

1909.
March 5. Deft. appears by DeLancey Nicoll.
Pleading adjourned one week.
March 15. Deft. pleads not guilty.
1910.
Jan. 25. Trial begun.
Jan. 26. Motion to quash granted.
44 Feb. 28. Filed order extending January term, 1910, to April 1, 1910, and it is further ordered that the time to file bill of exceptions, etc., be extended to April 1.

45 *Order for judgment.*

At a stated term of the United States Circuit Court, for the trial of criminal causes, held at the United States court-house and post-office building, in the borough of Manhattan, city of New York, on the 25th day of February, 1910, present, Hon. Charles M. Hough, U. S. Judge.

THE UNITED STATES OF AMERICA,
vs.
THE PRESS PUBLISHING COMPANY, DEFENDANT.

An indictment against the Press Publishing Company, the defendant above named, having been found and filed by the grand jurors of the United States in and for the Southern District of New York in the office of the clerk of the United States Circuit Court for the Southern District of New York on the 4th day of March, 1909, and thereafter the defendant above named having been arraigned and having thereupon interposed a plea of not guilty, and the issues raised by the said plea having been thereafter brought on for trial, and a jury having thereupon been drawn, empaneled, and sworn, and the Government having presented certain evidence in support of the allegations contained in the indictment herein, and thereupon on the 26th day of January, 1910, the defendant having made a motion herein to quash the indictment herein, and after hearing argument thereon,

Now, on motion of DeLancey Nicoll, esq., counsel for the defendant, it is

Ordered and adjudged that the said motion to quash, be and the same hereby is, granted, and the indictment herein is hereby
46 quashed, set aside, and declared to be null and void because the indictment is not authorized under any construction of the act of Congress upon which it is alleged to be predicated, to wit, the act of Congress of July 7, 1898, chapter 576, section 1, 30 Stat. L., 717, or under the construction of any other statute of the United States now in force and it is further ordered that judgment be entered accordingly.

C. M. HOUGH,
United States Judge.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Feb. 25, 1910. John A. Shields, clerk.

47 *Judgment.*

United States Circuit Court for the Southern District of New York in the Second Circuit.

THE UNITED STATES OF AMERICA,
against
THE PRESS PUBLISHING COMPANY, DEFENDANT.

An indictment against the Press Publishing Company, the defendant above named, having been found and filed by the grand jurors of

the United States in and for the Southern District of New York, in the office of the clerk of the United States Circuit Court for the Southern District of New York, on the 4th day of March, 1910, and thereafter the defendant above named having been arraigned and having thereupon interposed a plea of not guilty, and the issues raised by said plea having been thereafter brought on for trial, and a jury thereupon having been drawn, empaneled, and sworn, and the Government having presented certain evidence in support of the allegations contained in the indictment. And thereupon on the 26th day of January, 1910, the defendant having made a motion herein to quash the indictment herein; and after hearing argument thereon now on motion of De Lancey Nicoll, esq., counsel for the defendant, it is

Ordered and adjudged that the said motion to quash be, and the same hereby is, granted, and the indictment is hereby quashed, set aside, and declared to be null and void, because the same is not authorized under any construction of the act of Congress upon which it is alleged to be predicated, to wit, the act of Congress of July 7, 1898, chapter 576, section 1, 30 Stat. at Large, at page 717, or
48 under the construction of any other statute of the United States now in force.

Judgment entered this 25th day of February, 1910.

JOHN A. SHIELDS,
Clerk of the Circuit Court of the United States for the Southern District of New York.

(Endorsed:) United States Circuit Court, Southern District N. Y. Filed Feb. 25, 1910. John A. Shields, clerk.

49 *Order.*

United States Circuit Court, Southern District of New York.

THE UNITED STATES OF AMERICA,
plaintiff in error,
against
THE PRESS PUBLISHING COMPANY,
defendant in error.

Upon the annexed consent it is hereby ordered that the January term of this court for the trial of criminal causes be, and the same hereby is, extended to and including the first day of April, 1910, for the purpose of allowing the United States to prepare, serve, and file its bill of exceptions herein;

And it is further ordered that the time for the United States to prepare, serve, and file its bill of exceptions herein be, and the same hereby is, extended to the first day of April, 1910;

And it is further ordered that the time for the United States to file amended or supplemental assignments of error herein be, and it

hereby is, extended to the first day of April, 1910, and it is further ordered that the United States be, and it hereby is, permitted to file amended or supplemental assignments of error herein at any time until the first day of April, 1910.

New York, February 28, 1910.

C. M. HOUGH,
United States District Judge.

The entry of the foregoing order is consented to.

HENRY A. WISE,
United States Attorney.
NICOLL, ANABLE, LINDSAY & FULLER,
Attorneys for Defendant in Error.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Feb. 28, 1910. John A. Shields, clerk.

50 Circuit Court of the United States for the Southern District of New York in the Second Circuit.

THE UNITED STATES OF AMERICA
against
PRESS PUBLISHING COMPANY, DEFENDANT.

Upon reading and filing the annexed consent it is hereby

Ordered that the time for the defendant to serve its proposed amendments to the Government's proposed bill of exceptions herein be, and the same hereby is, extended to and including the 20th day of April, 1910; and it is further

Ordered that the January, 1910, term of this court for the trial of criminal causes be, and the same hereby is, extended to and including the 20th day of April, 1910, for the purpose of settling and filing the exceptions herein at said term, and for no other purpose.

Dated March 28th, 1910.

C. M. HOUGH, *D. J.*

We hereby consent to the entry of the foregoing order.

HENRY A. WISE, *U. S. Attorney.*
NICOLL, ANABLE, LINDSAY & FULLER,
Attorneys for Defendant.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Mar. 29, 1910. John A. Shields, clerk.

51 *Order and consent.*

Circuit Court of the United States for the Southern District of New York in the Second Circuit.

THE UNITED STATES OF AMERICA
vs.
PRESS PUBLISHING CO., DEFENDANT.

On reading and filing the annexed consent it is hereby

Ordered, that the time for the defendant to serve its proposed amendments to the Government's proposed bill of exceptions herein be, and the same hereby is, extended to and including the 30th day of April, 1910; and it is further

Ordered, that the January, 1910, term of this court for the trial of criminal causes be, and the same hereby is, extended to and including the 30th day of April, 1910, for the purpose of settling and filing the exceptions herein at the said term, and for no other purpose.

Dated, April 15th, 1910.

E. H. LACOMBE,
Judge of the U. S. Circuit Court.

We hereby consent to the entry of the foregoing order.

Dated, April 15th, 1910.

HENRY A. WISE,
United States Attorney for Southern District of New York.
NICOLL, ANABLE, LINDSAY & FULLER,
Attorneys for Defendant.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Apr. 15, 1910. John A. Shields, clerk.

52 United States Circuit Court, Southern District of New York, in the Second Circuit, January term, 1910.

THE UNITED STATES OF AMERICA
vs.
PRESS PUBLISHING CO., DEFENDANT.
} Bill of exceptions.

The issues in this action came on for trial and were tried at a stated term of this court, held at the United States court-house and post-office building in the Borough of Manhattan, in the city of New York, in the Southern District of New York, on the 24th, 25th, and 26th days of February, 1910, before the Honorable Charles M. Hough, one of the United States district judges for the Southern District of New York, who had been theretofore assigned to hold said term. The Government appeared by Henry A. Wise, esq., United States attorney for said district; Stuart McNamara, esq., special assistant to

the Attorney-General, and James R. Knapp, esq., special assistant, United States attorney.

The defendants appeared herein by Messrs. Nicoll, Anable, Lindsay & Fuller, their attorneys, and De Lancey Nicoll, esq., John D. Lindsay, esq., and Thomas S. Fuller, esq., of counsel.

The Government moved the case for trial. The trial proceeded, and a jury was duly empaneled and sworn. Mr. Wise opened for the Government.

53 It was admitted by the defendant:

That the defendant now is, and throughout the month of October, 1908, was, a corporation organized and existing and doing business under and by virtue of the laws of the State of New York;

That during said month of October, 1908, one Joseph Pulitzer was its president and one J. Angus Shaw was its secretary;

That during the month of October, 1908, the defendant was and is the owner of the newspaper known as The World;

That the defendant, during the month of October, 1908, had, and now has, its printing establishment in its building, known as the Pulitzer Building, situated on Park Row, in the Borough of Manhattan, of the city of New York, which was and is a place within the jurisdiction of the State of New York, and not a place within the exclusive jurisdiction of the United States, and that the defendant at that time printed its said newspaper at said Pulitzer Building and at no other place;

That during the month of October, 1908, and for many years prior thereto and to July 7, 1898, the military reservation at West Point, in the county of Orange, in the State of New York, in the Southern District of New York, was and had been a tract of land purchased and accepted by the Congress of the United States by the consent of the legislature of the said State of New York and used by the United States as a fort and military post and reservation under the name of West Point, over which said tract of land exclusive jurisdic-

54 tion was long before said period and subsequent to said purchase ceded to the United States by the State of New York, and ever since such cession has been exercised by the United States, together with exclusive legislation in all cases whatsoever;

That during the month of October, 1908, and for many years prior thereto and to July 7, 1898, there has existed a certain tract of land in the Borough of Manhattan, in the city of New York, in the State of New York, in the Southern District of New York, bounded by Broadway, Park Place, and Mail street, in said borough, purchased and accepted by the Congress of the United States by consent of the legislature of the State of New York, whereon has stood a needful building used by the United States as a court-house and post-office, known as the United States court-house and post-office building, over which said tract of land and building exclusive jurisdiction was long before the said period and subsequent to such purchase ceded to the United States by the said State of New York, and ever since such

cession has been exercised by the United States together with exclusive jurisdiction in all cases whatsoever:

That during the entire month of October, 1908, the post exchange mentioned in the indictment herein, at and on the aforesaid military reservation at West Point, was a regular subscriber for twenty-nine copies of defendant's aforesaid daily newspaper known as The World and as such was carried upon the defendant's regular circulation list of subscribers to its said paper:

That on each and every day in said month of October, 1908,
55 the said defendant delivered and caused to be delivered to said post exchange at and on the said military reservation at West Point twenty-nine copies of its said daily paper known as The World:

That during the entire month of October, 1908, one Walter S. Mayer was a government official, to wit, post-office inspector in charge, having his office and place of business in the aforesaid court-house and post-office building, and said Walter S. Mayer had theretofore requested the defendant to deliver to him a daily copy of its aforesaid newspaper, known as The World:

That on each day of said month of October, 1908, the defendant delivered and caused to be delivered gratuitously to said Walter S. Mayer, at and in the aforesaid United States court-house and post-office building, one copy of its said paper known as The World:

That each of said papers delivered as aforesaid to said post exchange and to said Walter S. Mayer on the 3rd day of October, 1908, contained the article set forth in the first count of the indictment herein; and that each of said papers delivered as aforesaid to said post exchange and to said Walter S. Mayer on the 4th day of October, 1908, contained the article set forth in the second count of the indictment herein; and that each of said papers delivered as aforesaid to said post exchange and to said Walter S. Mayer on the 7th day of October, 1908, contained the article set forth in the third count of the indictment herein; and that each of said papers delivered as aforesaid to said post exchange and to said Walter S.
56 Mayer on the 14th day of October, 1908, contained the article set forth in the fifth count of the indictment herein; and that each of said papers delivered as aforesaid to said post exchange and to said Walter S. Mayer on the 16th day of October, 1908, contained the article set forth in the sixth count of the indictment herein; and that each of said papers delivered as aforesaid to said post exchange and said Walter S. Mayer on the 19th day of October, 1908, contained the article set forth in the seventh count of the indictment herein.

It was admitted by the Government—

That all of the issues of The World containing the articles set forth in the indictment were printed in the defendant's said printing establishment and were put in circulation and circulated therefrom throughout the United States and throughout all of the States of the United States.

It was admitted by the Government and the defendant—

That the copies of The World for October 3rd, 4th, 7th, 14th, 16th, and 19th, respectively, which were delivered as aforesaid by the defendant at said West Point reservation (counts 1 to 7, inclusive), and the copies thereof which were delivered as aforesaid by the defendant to said Walter S. Mayer, post-office inspector in said United States court-house and post-office building, in the city of New York (counts 8 to 14, inclusive), were so printed in the defendant's said printing establishment and within the jurisdiction of the State of New York, and were so delivered as aforesaid at West Point and in the New York post-office building in the regular course of and as a part of the regular circulation of The World;

That the total circulation of The World on October 3rd, 1908, was 376,326 copies, of which number 316,456 copies were circulated in the city of New York and not upon territory within the exclusive jurisdiction of the United States, the remaining 59,870 copies
57 being spread throughout the United States; and on October 19, 1908, the total circulation of The World was 382,410 copies, of which number 323,198 copies were circulated in the city of New York and not upon any territory within the exclusive jurisdiction of the United States, the remaining 59,212 copies being spread throughout the United States; and that the total circulation of The World on the other dates of publication mentioned in the indictment was about 380,000 copies, of which upwards of 320,000 were circulated in the city of New York, but not within federal territory, the remainder being spread throughout the United States.

The Government then introduced evidence, which the defendant admitted, tended to prove the colloquium of each of the counts of the indictment.

Mr. NICOLL. If your honor please, as it now appears from the record that the newspapers containing the articles complained of were printed by the defendant in its printing office on Park Row in the city of New York, and there published; and that they were circulated to the federal territory of the United States described in the indictment, to wit, West Point and the post-office building, in this city, in the ordinary course of daily circulation, I now move that your honor quash this indictment or dismiss this proceeding, or, as your honor may be advised, instruct the jury to acquit the defendant, upon the following grounds:

First. The court has no jurisdiction in this case because there is no statute of the United States authorizing the prosecution.
58 Second. The act of 1898 does not apply to the case as disclosed by the evidence.

Third. If construed so as to cover the acts shown by the evidence, the act is unconstitutional.

Fourth. The offence, if any, was committed wholly within the jurisdiction of the State of New York and was punishable there.

Fifth. The defendant being a corporation is incapable of committing the offense charged in the indictment.

Mr. Nicoll then argued for the defendant, concluding as follows:

Mr. NICOLL. Now, for all these reasons, and reserving such other time that your honor will allow me after the district attorney closes his argument, I move that this indictment be quashed.

Mr. WISE. Now, may it please the court, Mr. Nicoll in opening his argument asserted four propositions on which he claims this court should dismiss this indictment.

First. That the court has no jurisdiction;

Second. That the act of 1898 does not apply to this case;

Third. That the act is unconstitutional; and

Fourth. That the act was committed entirely within the State of New York and is punishable there.

I believe there was another ground stated on which there was no argument. That is, a newspaper corporation could not be guilty of the crime of libel. I have not heard any argument upon that proposition, and I assume that Mr. Nicoll——

59 Mr. NICOLL. It is not necessary to argue that. It is the jurisdictional question.

Mr. WISE. I did not suppose you put any weight on that.

Mr. NICOLL. I do put great weight upon it, but the jurisdictional question is the first question.

Mr. WISE. In order that the proposition may be disposed of by the Government in the event——

The COURT. You stick to the question of jurisdiction, Mr. Wise.

Mr. Wise then argued for the Government.

The court then delivered the following opinion:

The COURT. Gentlemen, this question, deeply interesting as it is, having been presented in the necessary hurry of a jury trial, does not offer the opportunity for study and reflection that it merits; yet in the progress of the case I have formed some very definite views which enable me to dispose of the motion now.

The court is relieved of much embarassment by the form of one of the motions made. The jurisdiction of the court is peremptorily challenged by the motion to quash. Other motions have been made which will not be considered. But inasmuch as a decision under a motion to quash is now speedily reviewable by the highest court, I shall dispose of the case under that motion.

One question that has been presented is whether the sending by mail, or otherwise in the ordinary course of business of libel-

60 ous matter, to a place without the country or district of original publication constitutes a crime punishable at the place of destination. If this question be answered in the affirmative, a further question must still remain, viz, whether if such place of destination be within the exclusive jurisdiction of the United States the crime of libel so committed is cognizable in the national courts. This last question is the narrower one, it is peculiarly federal in its nature, and to that question alone the decision about to be given is directed.

This indictment is admittedly based upon the act of July 7, 1898, taken in conjunction with the appropriate portions of the penal law of New York then in force. There are some propositions regarding the jurisdiction of national courts that appear to me to be fundamental and appropriate to be remembered now. The jurisdiction of any court of the United States below the Supreme Court is statutory only. Such courts, as has been often said, though not of inferior, are of limited jurisdiction. Whatever jurisdiction they severally exercise must be based upon some act of Congress duly and constitutionally enacted. It has been admitted here in argument repeatedly, and cannot, I suppose, be denied, that the mere fact that by the same act or series of acts, crime is committed cognizable by the courts of both State and Nation, affords no reason for limiting the jurisdiction to try the offences committed to either tribunal. The offences may be punishable, and actually punished, by the tribunals of both.
61 Such may be, and has been, in many cases, the result of a double allegiance owed by every citizen, and the double authority inherent both in the separate parts and in the sum total of what the Chief Justice called an indissoluble union of indestructible States. It seems to me that when the reasons for this admitted fact are examined they will be found to rest on the fundamental proposition that the National Government, although one of delegated powers, is within the limitations of such powers, not only supreme, but exclusive of every other conceivable authority. It may well, therefore, happen that a man who robs a store does also by such breaking and entering violate the postal laws, or that one who commits a forgery does by the same false writing violate the national banking law. That last instance, I think, is an actual case that went to the Supreme Court. Such offenders subject themselves to two punishments, and they have no right to complain of apparently double punishment, because they have offended two sovereignties.

The jurisdiction exercised by the national courts, on the criminal side, nowadays, rests, as experience shows, mainly on the necessity of vindicating and sustaining the delegated powers or authority vested in the union established by the Constitution. But inasmuch as no sovereignty worthy of the name can sustain itself and properly exercise its functions without exclusive possession, ownership, and control of some territory, the United States has, from the beginning, either retained or acquired land situate probably in every State in the Union and deemed suitable for military, naval, and other national purposes. Over these reservations, or many of them, it has
62 always exercised exclusive jurisdiction, either for every purpose, or for such purposes as Congress may from time to time deem advisable. As has been said in argument, for the District of Columbia a complete system of municipal law has been devised. Whether it be competent within the limitations of the Constitution for Congress to extend that system of law to all of those places or regions over which the United States possesses exclusive jurisdiction I do not think need be now considered. It may be admitted that it

can be done, but it cannot be denied that so far as such places within the boundaries of the several States are concerned, Congress never has devised or created any complete system of law enforceable in and by the national courts.

It seems to me that there is a plain distinction between that jurisdiction which grows out of the necessary exercise of national powers and that which is based on the physical ownership of areas of land. The first basis or foundation of jurisdiction is governmental and fundamentally governmental. The existence and exercise of that species of jurisdiction is vital to the National Government, but territorial jurisdiction is merely a convenience. It is frequently a very great convenience, but it is no more than that. The criminal statutes passed in the exercise of congressional authority have always, as far as they have come under my observation, seemed to me to view offenses and offenders from one of two standpoints. The proscribed act is made an offense or crime because it either lessens the authority
63 or attacks the sovereignty, or interferes with the operation of, or injures the property of the United States; or else it is an offense against general municipal law which happens to be committed upon a place within the exclusive jurisdiction of the nation. Now, it may be; it has in the past been thought that under some circumstances the crime of libel might be considered to impair the authority and interfere with the efficiency of the Government of the United States, but so far as I know, or am informed by counsel, this thought has not found expression in any national statute now in force. Therefore in this court the crime charged in this indictment is to be regarded only as an offense against the United States, if it is an offense against the law of New York, which happened to be committed upon national land physically within the Southern District of New York; so that in my view the ultimate question, or certainly one of the ultimate questions in this case is a very narrow one, but the consequences of answering that question in favor of the prosecution seem to me also of very serious character. The place where a crime is committed, for purposes of prosecution, is notoriously one upon which a great deal of very technical learning has been spent. One is guilty of larceny, not only in the county where he takes away the goods by virtue of the original trespass with intent to steal, but in any county into which he transports the goods, the intent to steal continuing. Conspirators are responsible for their conspiracy, not only in that county wherein the original unlawful meeting of minds occurred, but in any other county where an overt act contributing to the object of the conspiracy may have been performed. So here a libel may be published in one county or in many, and
64 by the contention of the Government every publication is a new offense, or if you please, the entire series of publications constitutes a continuing offense. In this case the extremely defamatory matters printed, as set forth in the indictment and circulated, as shown by the evidence, may be assumed to have rendered the publisher liable at common law in every county in the State of New

York where publications occurred, although by the present law of New York no more than one prosecution can be maintained for that single libel.

These illustrations have occurred to me since the trial began, and might be multiplied, but these are sufficient, to my mind, to show that there were at the time when this act was passed many crimes which by their nature could give rise at common law to indictments in more places than one; and therefore the question seems most material whether it was the intention of the framers of the series of statutes of which the act of 1898 is the last, to instruct the federal courts to take cognizance of any and every offense cognizable by local municipal law, wherever such courts would have jurisdiction, if each United States district court, or the circuit court for a given district, could be regarded as a court of plenary state jurisdiction (on the criminal side) for a county consisting of all the national lands within the district. It seems to me that this is a fair statement of the ultimate problem. To put it in another way, the question is this: The libelous matter here complained of was printed and published in the county of New York. Therefore, the state court sitting in that county has jurisdiction. It was also published in the
65 county of Orange; therefore, the state court sitting in that county has jurisdiction. But it was also published in the West Point reservation, which is both in the county of Orange and the Southern District of New York, and therefore this court has jurisdiction. To the proposition that this can be true, I am unwilling to yield assent until instructed by higher authority. Most of the rules of life on national reservations are and always have been guided and controlled by the laws of the State in which the reservations are situated, and I feel that the burden of proof is upon those who assert that it was the intention of Congress in 1825, or at any subsequent time, to entrust to the circuit and district courts of the United States the punishment of offenses other than those which were either begun and ended or primarily committed on national property. In my judgment Congress has never intended to do more than this.

The very interesting history of legislation to which my attention has been called seems, as presented, to bear out this view; but it would be idle vanity on my part to pretend that most of the matter referred to in the argument has ever received my personal study or attention. I am, however, of the opinion that the construction of this act claimed by the prosecution is opposed to the spirit and tenor of legislation for many years on the subject of national territorial jurisdiction. It is a novelty, and the burden of upholding a novelty is on him who alleges it. I am the more willing to come to the conclusion now evident, because this very interesting question
66 can be lawfully presented to the Supreme Court of the United States, and I am sure that the judgment of that court should be obtained before either the time of this court or the time of jurors be occupied in going into a matter which could not, in my judgment, if exploited with a question of law of this kind hanging over it, be

determined with any profit to the public, or any benefit to the administration of justice.

It is therefore ordered that a judgment of this court be entered quashing the indictment herein, because upon the construction of the statute, hereinbefore stated, the indictment is not authorized by the statute upon which it rests.

Mr. WISE. Before that is done, I ask that a juror be withdrawn, in order that no question of jeopardy may enter into the case.

The COURT. Motion granted.

A juror was then withdrawn.

67 Forasmuch as the matters hereinabove set forth do not fully appear of record, and to the end that the same may be and become of record, and in furtherance of justice and that right may be done, the United States of America presents and tenders this its bill of exceptions herein, and prays that the same may be settled, allowed, signed, and certified by the judge who presided at the trial of this cause, as provided by law.

And it is done accordingly at the said January term as extended this 29 day of April, 1910.

C. M. HOUGH,
Judge of the United States District Court, Southern District of New York. Holding the Circuit Court.

No objection is made to the form of the foregoing bill of exceptions, and notice of settlement thereof is hereby waived.

Dated April 27, 1910.

NICOLL, ANABLE, LINDSAY & FULLER,
Attorneys for Defendant.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Apr. 29, 1910. John A. Shields, clerk.

68 *Petition for writ of error.*

United States Circuit Court for the Southern District of New York, in the Second Circuit.

UNITED STATES OF AMERICA
vs.
THE PRESS PUBLISHING COMPANY, DEFENDANT.

Now comes the United States of America, by its attorney Henry A. Wise, and complains that in the record and proceedings had in this cause and in the judgment quashing the indictment herein and dismissing the said indictment manifest error hath happened, as will appear in the assignment of errors herewith submitted, the United States of America prays for the allowance of a writ of error and

for such other orders and process as may cause the same to be corrected by the Supreme Court of the United States.

Dated February 25th, 1910.

HENRY A. WISE,
United States Attorney for the Southern District of New York, Attorney for Petitioner.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Feb. 25, 1910. John A. Shields, clerk.

69 United States Circuit Court for the Southern District of New York, in the Second Circuit.

THE UNITED STATES OF AMERICA
vs.
THE PRESS PUBLISHING COMPANY, DEFENDANT.

Assignment of errors.

The United States of America, in connection with its petition for a writ of error, makes the following assignment of errors which it alleged occurred in the decision of the court herein quashing the indictment herein, to wit:

I. The court erred in quashing the indictment herein.

II. The court erred in sustaining the motion of the defendant to quash the indictment herein.

III. The court erred in not denying the motion of the defendant to quash the indictment herein.

IV. The court erred in holding, as it did in granting the motion to quash the indictment herein, that it had no jurisdiction over the offense set forth in the indictment herein.

V. The court erred in holding, as it did in granting the motion to quash the indictment herein, that it had no jurisdiction over the offense set forth in the indictment herein as proven by the facts adduced upon the trial.

70 VI. The court erred in holding that where the proprietor of a newspaper whose printing press is not upon federal territory prints its paper at such place and thereafter circulates and causes to be circulated, delivers, and causes to be delivered copies of its papers containing libelous articles upon territory under the exclusive jurisdiction and control of the United States that the United States court for the district in which such territory is located has no jurisdiction to prosecute such proprietor for such circulation and delivery.

VII. The court erred in holding, as a matter of law, that the circulation on federal territory or on territory ceded to the United States and under the exclusive jurisdiction of the United States of a libel which is printed at a place within the exclusive jurisdiction of a State is not an offense against the United States when the publication of such article within the State in which such territory is located would be a crime under the laws of such State.

VIII. The court erred in holding, as a matter of law, that the circulation of a paper containing a libelous statement upon territory theretofore ceded to and then under the exclusive jurisdiction of the United States, which said paper had been printed at a place within the exclusive jurisdiction of a State, did not constitute a violation of the laws of the United States which could be prosecuted in the United States courts as a violation of the act of July 7, 1898, chapter 576, section 1, 30 Stat. L., 717, when the publication of such article within the State in which such territory is located would be a crime under the laws of such State.

IX. The facts adduced upon the trial herein having estab-
71 lished beyond a reasonable doubt that the defendant is and at all the times mentioned in the indictment was a corporation organized under the laws of the State of New York, and as such was at all the times mentioned in the indictment engaged in printing and circulating a newspaper known as "The World," and that on the days and dates set forth in the respective counts of the indictment it delivered at the United States court-house and post-office building in the county of New York, in the State of New York, copies of its paper containing articles of and concerning Theodore Roosevelt, William H. Taft, Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, and which were false, defamatory, and libelous, and that said United States court-house and post-office building at such times was and now is territory theretofore ceded to the United States by the State of New York, and was and is a useful and necessary building of the United States, and was and is territory under the exclusive jurisdiction and control of the United States, the court erred in holding that such delivery of such papers at such place did not constitute an offense against the United States which could be prosecuted and punished in the Circuit Court of the United States for the Southern District of New York.

X. The facts adduced by the prosecution upon the trial of this case having established beyond a reasonable doubt that the defendant is and at all the times mentioned in the indictment was a corporation organized and existing under the laws of the State of New York, and as such was at all such times engaged in printing a newspaper known as "The World," and that on the dates respectively mentioned in the respective counts of the indictment herein that said de-
72 fendant delivered and caused to be delivered copies of its newspaper containing articles of and concerning Theodore Roosevelt, William H. Taft, Douglas Robinson, Charles P. Taft, and William Nelson Cromwell which were false, defamatory, and libellous into the territory at West Point, in the county of Orange, in the State of New York, which territory then and there was territory theretofore ceded to the United States by the State of New York, and was then and there territory occupied and used by the United States as and for a fort, arsenal, and other useful purposes, and then and there was territory under the exclusive jurisdiction and control

of the United States, the court erred in holding that such delivery of such papers containing such articles upon such territory by the defendant did not constitute an offense against the United States which could be prosecuted and punished in the United States Circuit Court for the Southern District of New York.

XI. The malicious publication by writing, printing, picture or effigy otherwise than by words of mouth of and concerning a living person, which words tend to hold such person up to contempt, ridicule, scorn, or obloquy, being a criminal offense under the laws of the State of New York prior to the 7th day of July, 1898, and the defendant herein having been shown by the evidence herein to have circulated and caused to be circulated, delivered, and caused to be delivered into the territory within the United States court-house and post-office building in the county of New York, State of New York, which territory had before such circulation and delivery been ceded to the United States by the State of New York, and at the time
73 of such circulation and delivery being under the exclusive jurisdiction and control of the United States, and being a building occupied and used by the United States as a necessary and useful building, and said papers so circulated and delivered at said place at the time aforesaid by the defendant, a corporation organized and existing under the laws of the State of New York, and containing articles of and concerning living persons, to wit, Theodore Roosevelt, William H. Taft, Douglas Robinson, Charles P. Taft, and William Nelson Cromwell, which articles are and were calculated and intended to, and did tend to, hold such persons up to ridicule, contempt, scorn, and obloquy, the court erred in holding that such circulation and delivery did not constitute an offense against the United States for which the defendant could be prosecuted and, upon conviction, punished in the United States Circuit Court for the Southern District of New York.

XII. The court erred in holding, as a matter of law, that the act of Congress of July 7, 1898, chapter 576, section 1, 30 Stat. L., 717, did not vest the United States Circuit Court for the Southern District of New York with jurisdiction to prosecute a person who produces a libelous article at a place within the exclusive jurisdiction of the State of New York, and thereafter delivers or causes the same to be delivered or circulated or published upon territory ceded to the United States and under the exclusive jurisdiction of the United States situated within the Southern District of New York.

The United States aforesaid, plaintiff in error, prays that the decision aforesaid and the order entered thereon for the errors aforesaid and other errors in the record and proceedings herein may be reversed and all together held for nothing, and that the plain-
74 tiff in error may be restored to all things which it has lost by reason of said decision and order, and that the Circuit Court be directed to vacate and set aside said order and to compel the

defendant, the defendant in error, to plead to the indictment herein, and for such other and further relief as to the court may seem proper.

Dated, February 25, 1910.

HENRY A. WISE,
United States Attorney for the Southern District of New York, Attorney for Petitioner.

(Endorsed:) U. S. Circuit Court, Southern District N. Y. Filed Feb. 25, 1910. John A Shields, clerk.

75 By the Honorable Charles M. Hough, one of the judges of the District Court of the United States for the Southern District of New York, in the Second Circuit, to the Press Publishing Company, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, at the Capitol, in the city of Washington, in the District of Columbia, on the 25th day of March, 1910, pursuant to a writ of error filed in the clerk's office of the Circuit Court of the United States for the Southern District of New York, wherein the United States of America is appellant and you are appellee, to show cause, if any there be, why the judgment in said writ mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the borough of Manhattan, in the city of New York, in the district and circuit above named, this 25th day of February, in the year of our Lord one thousand nine hundred and ten, and of the independence of the United States the one hundred and thirty-fourth.

C. M. HOUGH,
Judge of the District Court of the United States for the Southern District of New York, in the Second Circuit.

76 (Indorsed:) (Original.) United States Supreme Court. United States of America vs. The Press Publishing Company. Citation. Henry A. Wise, United States Attorney, Attorney for U. S. U. S. Circuit Court, Southern District, N. Y. John A. Shields, clerk.

Due and timely service of a copy of the within citation is hereby admitted.

Dated, New York, Feb. 25, 1910.

NICOLL, ANABLE, LINDSAY & FULLER,
Attys. for Press Pub. Co.

(Indorsed on cover:) File No. 22,151. S. New York, C. C. U. S. Term No. 541. The United States, plaintiff in error, vs. Press Publishing Company. Filed May 9th, 1910. File No. 22,151.